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Statesman Edition — Vol. XVIII

Charles Sumner

HIS COMPLETE WORKS

With Introduction

BY

HON. GEORGE FRISBIE HOAR

BOSTON
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ADMISSION OF MISSISSIPPI TO REPRESENTATION IN CONGRESS.

SPEECH IN THE SENATE, FEBRUARY 17, 1870.

FEBRUARY 8, 1870, Mr. Trumbull, from the Committee on the Judiciary, to whom had been referred a bill from the House for the admission of Mississippi to representation in Congress, with conditions the same as in the case of Virginia, reported it back with an amendment striking out all these, and admitting the State unconditionally.

In a speech, February 17th, in reference to the proposed amendment, Mr. Sumner said : —

MR. PRESIDENT, — Throughout the long struggle anterior to the Rebellion, and then throughout the Rebellion itself, Slavery had two voices by which it was heard in this Chamber and in the country. The first was that by which its continued existence was vindicated, or, if you please, the right of Slavery; the other was that of State Rights. By these two voices was Slavery heard. Happily, the first is silenced; but the other is still sounding among us, crying out against those generous efforts by which Human Rights are assured.

I am not wrong in this statement. From the beginning it has been the same. How often in times past have we heard the cry of State Rights! At every proposition concerning Slavery, at the presentation of every petition against this tyrannical wrong, at every allusion to it, the cry was heard. And when the Rebellion broke

forth, the same cry was raised against those great measures of self-defence by which Slavery, our real enemy, was assailed; and then at each stage of Reconstruction it was the same. Not a measure of Reconstruction which has not encountered this pretension of State Rights. It broke forth in the Virginia debate. It breaks forth on the present occasion. Again we hear the voice of Slavery.

This pretension, which is so constantly manifest, finds partisans naturally on the other side of the Chamber. It is easy for Senators who have upheld Slavery to uphold that interpretation of the Constitution which was the constant ally of Slavery; but it is incomprehensible how Senators fresh from the great battle with Slavery should continue in dalliance with the constant ally.

The argument for State Rights proceeds on a misapprehension. Nobody doubts the right of a State to local self-government, through which are supplied the opportunities of political education, and also of local administration adapted precisely to local wants. This is the peculiarity of our national system, wherein it differs especially from the centralized imperialism of France. But while recognizing the State as the agency for all matters properly local, it must not be allowed to interfere with those other matters, being rights and duties, which are not local, but universal.

Now, Sir, nothing can be clearer than that the Equal Rights of All must be placed under the safeguard of one uniform law which shall be the same in all parts of the nation, — the same in Charleston and New Orleans as in Boston and Chicago. It is absurd to suppose that the rights of the citizen can differ in different States. They must be the same in all the States; but this can

be consummated only by the national authority. Therefore, on grounds of reason, I repel that pretension of State Rights which would take this just prerogative from the nation. Understand me, Sir, I do not seek to *centralize*, but to *nationalize*. The partisans of State Rights, in their efforts to *decentralize*, would *denationalize*. In the name of local self-government they would overthrow the nation.

If I am asked where I find these national powers, I answer, that they are in those two great title-deeds of the Republic, the Declaration of Independence and the National Constitution. Whether viewed apart or together, these two are one and the same; but the two reinforce each other. The Declaration of Independence finds proper machinery for its great purposes in the National Constitution, while the National Constitution is explained, invigorated, and elevated by the Declaration of Independence. By the National Constitution the nation is bound to assure a republican government to all the States, thus giving to Congress the plenary power to fix the definition of such a government; but by the Declaration of Independence the fundamental elements of this very definition are supplied in terms from which there can be no appeal. By this Declaration it is solemnly announced, first, that all men are equal in rights, and, secondly, that just government stands only on the consent of the governed. Other things may fail, but these cannot. Whenever Congress is called to maintain a republican government, it must be according to these universal, irreversible principles. The power to maintain necessarily implies all ancillary powers of prevention and precaution, so that republican government may be assured. All these powers are essentially

national, and not local; they belong to the nation, and not to the State.

So long as Slavery existed, this definition was impossible. State Rights were set up against Human Rights; but with the death of Slavery, followed by the extinction of the Rebellion, this definition takes its just place in our national system. Therefore whatever tends to maintain a republican government and to place it beyond assault, whatever tends to maintain the great principles declared at our birth as a nation, — all this is constitutional. As well deny that the sun shines, — as well with puny arm attempt to drag the sun from the sky; still it shines. God be praised! the day has passed when State Rights can be exalted above Human Rights.

It is for Congress to determine, in its discretion, how republican government shall be maintained. Whatever it does in this regard, whether by general law, or by condition or limitation on States, is plainly constitutional beyond all question. All is in the discretion of Congress, which may select the "means" by which this great guaranty shall be performed. It is a guaranty by the express text of the Constitution, and it must be performed. In selecting the means, Congress cannot hesitate at any requirement calculated to secure the beneficent result. By condition-precedent, by condition-subsequent, by prohibitory legislation, by legislation acting directly on the States or the people, by each and all of these Congress may act, bearing in mind always the great definition supplied by our fathers, which must be maintained at all hazards.

It is vain to say that our fathers did not intend this great power and foresee its exercise. There it is in the

Constitution, clear and commanding; and there is the great definition in the Declaration of Independence, clear and commanding. If our fathers did not fully appreciate their mighty act, neither did the barons at Runnymede, when they obtained Magna Charta, the perpetual landmark of English rights. The words of the poet are again fulfilled: "They builded better than they knew." But they did build. They built this vast temple of Republican Liberty, and enjoined upon Congress its perpetual safeguard, "anything in the constitution or laws of any State to the contrary notwithstanding"; and, Sir, by the oath which you have taken to support the Constitution, are you bound to watch and protect this vast temple.

The recent war has had its losses, terrible and afflicting. It has had its gains also. First among these gains is that interpretation of the Constitution which makes us a nation, and places the equal rights of all under the protection of the national power, — being nothing less than the fulfilment of the early promises of the Fathers. Too slowly has this been accomplished; but it is accomplished at last; and it is our duty to see that these promises are in no respect neglected, and that the Republic, One and Indivisible, dedicated to Human Rights, and an example to mankind, is upheld in every part of our wide-spread country.

The amendment striking out the conditions of admission was rejected, and the bill passed in the form in which it came from the House, — Yeas 50, Nays 11.

THE FIRST COLORED SENATOR.

SPEECH IN THE SENATE, ON THE ADMISSION OF HON. HIRAM R. REVELS, A COLORED PERSON, AS SENATOR OF MISSISSIPPI, FEBRUARY 25, 1870.

MR. PRESIDENT, — The time has passed for argument. Nothing more need be said. I doubt if anything more can be said in the way of argument.

For a long time it has been clear that colored persons must be Senators, and I have often so declared. This was only according to the irresistible logic of the situation, to say nothing of inherent right.

If I do not discuss the question, it is partly because it is now so plain, and partly because on other occasions I have considered it at length. There is not a point in the case which I have not argued long ago. Nearly a generation has intervened since I insisted at home, in Massachusetts, that all must be equal before the law, without any distinction of color.[1] Several years have intervened since here in this Chamber I insisted on the same truth, and at the same time showed how, at the adoption of the National Constitution, colored persons were citizens according to the terms of all the State Constitutions, except that of South Carolina, and perhaps Virginia and Georgia.[2] These arguments and au-

[1] Equality before the Law, — Argument before the Supreme Court of Massachusetts, December 4, 1849: *Ante*, Vol. III. pp. 51, seqq.

[2] The Equal Rights of All, — Speech on the proposed Amendment of the Constitution fixing the Basis of Representation, February 5 and 6, 1866: *Ante*, Vol. XIII. pp. 190–4.

thorities were not answered then. They cannot be answered. It is useless to interpose ancient pretensions. They are dead beyond resurrection. It is useless to interpose the Dred Scott decision. Born a putrid corpse, this decision became at once a stench in the nostrils and a scandal to the Court itself, which made haste to turn away from its offensive offspring. By the subsequent admission of a colored lawyer to practise at its bar this decision was buried out of sight, to be remembered only as a warning and a shame.[1]

The vote on this question will be an historic event, marking the triumph of a great cause. From this time there can be no backward step. After prolonged and hard-fought battle, beginning with the Republic, convulsing Congress, and breaking out in blood, the primal truths declared by our fathers are practically recognized. "All men are created equal," says the great Declaration; and now a great act attests this verity. To-day we make the Declaration a reality. For a long time a word only, it now becomes a deed. For a long time a promise only, it now becomes a consummated achievement. The Declaration was only half established by Independence. The greater duty remained behind. In assuring the Equal Rights of All we complete the work.

No man acts for himself alone. What he does, whether for good or evil, is felt in widening circles, according to the measure of his influence. This is true of the Senate, whose influence is coextensive with the Republic, and reaches even beyond its enlarging con-

[1] See article entitled "Admission of a Colored Lawyer to the Bar of the Supreme Court of the United States," February 1, 1865: *Ante*, Vol. XII. pp. 97, seqq.

fines. What the Senate does now will be followed by other bodies and associations. As the greater contains the less, so does the Senate contain all these everywhere throughout the land. In other places there may be a brief struggle, but the end is certain. Doors will open, exclusions will give way, intolerance will cease, and the great truth will be manifest in a thousand examples. Liberty and Equality were the two express promises of our fathers. Both are now assured. And this is the glory of the Republic, before whose mighty presence, radiant with justice, kings and nobles must disappear as the ghosts of night at the morning sun, while the people, with new-found power and majesty, take their place.

What we do to-day is not alone for ourselves, not alone for that African race now lifted up. It is for all everywhere who suffer from tyranny and wrong, — for all everywhere who bend beneath the yoke, — for all everywhere who feel the blight of unjust power; it is for all mankind; it is for God Himself, whose sublime Fatherhood we most truly confess when we recognize the Brotherhood of Man.

A motion by Mr. Stockton, of New Jersey, to refer the credentials of Mr. Revels to the Committee on the Judiciary was, after a debate of three days, defeated by a vote of 8 Yeas to 48 Nays; and on motion of Mr. Wilson, of Massachusetts, Mr. Revels was thereupon, by the corresponding vote of Yeas 48, Nays 8, admitted to a seat.

CONSIDERATION OF TREATIES IN OPEN SENATE.

Remarks in the Senate, March 17, 1870.

On a resolution submitted by Mr. Ferry, of Connecticut, providing that "any treaty for the annexation to the United States of the entire dominion of any foreign power shall be considered and the question of its ratification decided in open session of the Senate," Mr. Sumner said: —

FROM the beginning I have always held that the Senate erred in the establishment of secrecy, particularly with reference to treaties. I think the first year that I had the honor of a seat in the Senate the question of a change of our rule in that regard was presented, and I voted in its favor. I have seen nothing from that day to this to change my judgment upon that particular point materially. I think that the rule of secrecy was a traditional policy which we derived from the diplomatic usages of the Old World. We came to it naturally, and it has continued with us down to this day. Now, personally, I incline to change it; but I have two suggestions to present, applicable to the pending question. The first is, whether it is advisable to change it while it is known that an important treaty is actually pending; whether the change, if such change should be adopted by the Senate, should not be applicable to the future rather than to any pending question. I merely present that, without undertaking to deter-

mine it. The other point is, whether a change so important, not to say so radical, whatever may be the judgment of individual Senators, like the Senator from Connecticut, or like myself, should not be referred to the committee having charge of such questions. I would therefore suggest that the proposition be referred to the Committee on Foreign Relations. That committee will meet next Tuesday, and I have no doubt will take it at once into consideration.

The resolution was referred accordingly, and, upon the report of the Committee, was indefinitely postponed.

ELIGIBILITY TO THE SENATE: QUESTION OF INHABITANCY.

Remarks in the Senate, on the Admission of General Adelbert Ames as a Senator of Mississippi, April 1, 1870.

MR. PRESIDENT, — I hesitate to say a word in this debate. The question has been exhausted on both sides, and to me, I must be pardoned for saying, it is infinitely plain. It is plain in law; it is plain in fact. When I say it is plain in law, I believe all the Senate on both sides will concur, — for, indeed, the Senator from Ohio [Mr. Thurman] stated the law precisely as I understand it.

We all know that in topography there are what are called water-sheds, sometimes high, sometimes low, and from these elevations flow in opposite directions the currents which there find their fountains. Sir, the water-shed of this debate is found in the intent; and this water-shed may be high or low. Suffice it that it is a water-shed; this is enough. Suffice it that the intent appears; and this is all that is required, in order to determine the character of the residence. Show me a citizen actually in a State, then the intent to remain fixes his inhabitancy.

The Senator from Illinois [Mr. Trumbull] substantially admitted this rule of law. I agree with him that there are but two things to be shown: first, what the

old books call the *factum*, and, secondly, what the same old books call the *animus*. What is the *factum?* It is residence. What is the *animus?* It is intent to stay. Now in point of law you can add nothing to these. You may argue till doomsday, you may cite authorities without number, but you can add nothing to these two simple requirements, residence and intent.

Mr. Thurman. Will the Senator allow me to interrupt him?

Mr. Sumner. Certainly.

Mr. Thurman. As he has referred to my statement of the law, I will say that I did state that those were the two things necessary, residence and intention, — that you want to find out what is residence that creates inhabitancy, and what is intention that creates inhabitancy; and what I said was, and I maintain yet, that a residence which is enforced is no residence, and an intention that the party has no power to execute so long as he remains in the Army is no intention at all: an intention that the party has no power to execute has no virtue whatever.

Mr. Sumner. Very well, — I will come to that. The Senator and myself agree that in point of law there are two things to be established, and only two, — residence and intent. The question that remains is one of evidence; it is not a question of law. If the Senator were on the bench, which he once adorned, he would be obliged to charge the jury in this way. The rule of law is positive. All that remains comes under the head of evidence. Now I say by law you must show those two things, residence and intent, and you cannot add to either a tittle.

On this occasion, the most important requirement is

that of intent. This is the requirement that has been most argued. And here I go back to that original Latin phrase which dominates this case, and which is in itself an all-sufficient rule: I mean the *animus manendi.* Why is this phrase, so often repeated, handed down for successive centuries? Simply because, like maxims of law, or like proverbs, it contains in one short phrase a rule. You have there a chapter of jurisprudence, if you please, or a volume. It is the mind, or the intent to remain, which governs. This is all that the law says. The law does not go forward and require, as the Senator from Illinois has argued to-day, that there must be an act. You find no such requirement in the rule. The rule is explicit, precise; and here I challenge contradiction. It is simply the intent to remain, the *animus manendi.* Step beyond that and you are lost, if you undertake to state the law. There is no rule of law outside of this simple sum-total.

I come, then, to the point that we have before us, simply a question of intent. I might cite authorities here. I have some of them before me. I will read one. For instance, here is Vattel, quoted by Judge Story in his article on DOMICILE in the "Encyclopædia Americana," which Senators familiar with this subject know is of authority: —

"Vattel seems to define it to be a fixed residence in any place with an intention of always staying there."[1]

On this Judge Story very properly remarks: —

"This is not quite accurate. It would be more correct to say that that place is the home or domicile of a person in

[1] "Le domicile est l'habitation fixée en quelque lieu, dans l'intention d'y demeurer toujours." — *Le Droit des Gens,* Liv. I. ch. 19, § 218.

which his habitation is fixed, without any present intention of removing therefrom."

Here are words completely applicable to the case now before us. The learned author then proceeds to say: —

"It is often a mere question of intention."

And then adds: —

"The mere dwelling or residence in a place is not of itself sufficient to make it the domicile of the party. He must be there with the intention of remaining, *animo manendi*."

Mark the old recurring phrase, with its light and limitation. Here again I say is the rule. You cannot go outside of it. If you go outside of it, you are lost. I am speaking of the rule of law. I know that there can be no addition to that, because, if you do undertake to add to it or to take from it, you must depart from the jurisprudence of every civilized country, — not only of our own country, not only of England, but of every civilized nation on the continent of Europe. In the jurisprudence of every one of those countries you will find this same distinct, precise, simple rule.

Now, Sir, allow me to say, — I say it with entire respect, — the confusion in this debate has arisen from confounding the rule of law with the evidence under that rule. The rule, I say, is precise, that there must be intent. But how shall the intent be proved? Sometimes in one way, sometimes in another; sometimes by long-continued residence, — by purchase of property, — by the establishment of a home, — by the establishment of a place of business, — by all those circumstances and incidents which show fixity of purpose. All this comes under the head of evidence. It does not touch the rule of law behind.

The Senator from Illinois says there must be an act. Allow me to say that words are sometimes acts, and especially if associated with important events. It is a familiar phrase of law that language enters into what we call the *res gestæ;* language is welded into the transaction and becomes a part of it. Words then become things; and when were words more things than when the commanding general in Mississippi distinctly declared his purpose to resign his commission in the Army of the United States and accept a nomination as Senator? Here was a declaration constituting part of the *res gestæ,* and in itself an act.

I am not speaking merely on theory. I have in my hand a case, which I think, when I read it, you will see is applicable: I refer to Metcalf's Reports, volume three, page 200, the case of *Kilburn* v. *Bennett.* In the statement of facts is the following passage: —

"For the purpose of showing with what intent the defendant went to Tyngsborough on the 27th of April, he offered to prove that about three weeks before that day he told S. Shattuck, in whose house he then resided, that he should leave Groton before the 1st of May, and remove with his family to Tyngsborough, to reside at his brother's, and make his house a home, until he should go to Illinois. But the judge ruled that the evidence was inadmissible, and rejected it."

The case was carried before the full bench, when the ruling of the judge below was set aside, and the Court observed as follows: —

"The Court held that this, being the mere declaration of the defendant, was not competent evidence in his favor, and it was rejected. The general rule undoubtedly is, that a party cannot give in evidence his own declarations in his favor,

unless they accompany some act, and are a part of the *res gestæ*. But it appears to us that the declarations offered to be proved are within the qualification of the rule. They were made in the ordinary course of business, and in relation to the defendant's removal, and they were made to the owner of the house in which he was at the time residing. This giving notice of his intended removal is to be considered an act which he might prove in any case in which it became material; and if so, all that he said explanatory of his intention in relation to his removal seems to us to be admissible in evidence."

Now on the authority of this case it seems to me that the declaration of General Ames, accompanied by the acceptance of candidacy as a Senator, is clearly an act. But I do not argue that the Senate is now bound by any technical rule of this kind. It is enough if the Senate is satisfied with regard to his intent on the evidence adduced. No rule of limitation or exclusion can prevail. If the Senate believes that he had at the time the *animus manendi*, it must act accordingly.

Is the Senate, on the evidence before it, — without the application of any technical rule of evidence, without recognizing his declaration as part of the *res gestæ*, — is the Senate satisfied that at the time named he intended to reside in Mississippi? This is the whole case. On this question of fact each Senator will judge for himself, on the evidence before him. This evidence I will read in the Report of the Committee, being the language of General Ames in a written statement to them, as follows: —

"A number of persons in Mississippi visited this city to find arguments by which I might be influenced to become a candidate. I hesitated, because it would necessitate the

abandonment of my whole military life. Finally, for personal and public reasons, I decided to become a candidate and leave the Army. My intentions were publicly declared and sincere."

On which the Committee remark: —

"The intentions thus declared were not only to become a candidate for the Senate, but to remain and reside in Mississippi."[1]

Sir, what more can you ask? On the report of your own Committee you have explicit evidence of the intent of General Ames to reside in Mississippi; and where intent is enough, you need add nothing to it. There is no necessity for any act beyond this declaration, which, as I have already said, is in itself an act, as the Senator from Michigan [Mr. HOWARD] says, taken in connection with his personal presence on the spot, — and I would add, taken in connection with all the necessary implications from his position, and from his acceptance of the candidacy. This is not a case in a justice's court, or even in a county court. This is the Senate of the United States; and we are considering the evidence with regard to the declarations of a gentleman already chosen by a State of this Union to take his seat among us. We cannot apply to these declarations any technical rule which possibly might be applied in an inferior tribunal. We are to look at the case in its essence, and, if satisfied of the intent, we cannot go further. The Senate does not sit in chains. It may act according to its conscience on the evidence, without any constraint, except from the rule of law requiring intent.

[1] Senate Reports, 41st Cong. 2d Sess., No. 75, p. 2.

Much stress has been laid upon the fact that General Ames held a commission in the Army of the United States, and was actually the military commander and provisional governor of Mississippi. What then? Does this affect his position now? Is a soldier or officer in the Army, is the commander of an army, shut out from the same privileges that belong to you, Sir, and to me? Each of us may change his domicile as he pleases, and to-morrow or next week transfer his home to another State of the Union, and nobody can say, No. Has the soldier or the officer fewer rights than you and I have? I think not; and I am sure that both reason and authority sustain my conclusion. I have in my hands a volume of the California Reports, — the twenty-eighth volume. I call attention to the case of *The People* v. *William Holden*, and I will not trouble you with anything more than one clause from the marginal note, as follows: —

"*Residence while in the service of the United States.* — The clause in the Constitution of this State, which declares that 'no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States,' does not prevent a person who removes to a county while in the service of the United States from acquiring a residence in that county while in the said service, if it is his intention so to do."

"If it is his intention so to do." These words are strictly applicable to the case of General Ames. There was nothing in his service in Mississippi, nothing in his high military command, to prevent him from establishing an inhabitancy in that State, if it was his intention so to do.

Thus at every point are we brought back to the single rule of law and the evidence under it, — the rule being that there must be an intent to remain, and the evidence being open to the judgment of the tribunal before which the question is raised. Especially must this be the case with the Senate, which will look through all technicalities, all cobwebs, to find the truth. Nor can the Senate be so unjust to any class of citizens as to say that a military commander may not acquire inhabitancy in a State where he is fixed by military duties, provided he so intends. All the adverse presumptions from military residency will be overcome at once by the *animus manendi*, so soon as this is proved.

Do you remember, Sir, a pointed remark made by Lafayette in the French Chamber, shortly after Louis Philippe was crowned King? Astonishment was expressed that the great defender of Liberty should espouse the cause of a Bourbon and help him to the throne. Lafayette, with remarkable condensation of phrase, replied, that he was in favor of Louis Philippe, not *because*, but *notwithstanding* he was a Bourbon, — "not *because*, but *notwithstanding*." And in this famous saying of the great French-American you have terms strictly applicable to this case. General Ames, soldier, officer, military commander in Mississippi, became an inhabitant thereof, not *because*, but *notwithstanding* he was soldier, officer, and military commander.

A resolution of the Committee on the Judiciary, declaring General Ames "not eligible," was on motion of Mr. Sumner amended by striking out the word "not," — Yeas 40, Nays 12, — and thus amended was agreed to without a division.

RATIFICATION OF THE FIFTEENTH AMENDMENT.

SPEECH AT A SERENADE BEFORE MR. SUMNER'S HOUSE IN WASHINGTON, APRIL 1, 1870.

THE occasion was the promulgation by the Secretary of State of the ratification of the Fifteenth Amendment to the Constitution. A large number of citizens, after calling upon the President and Vice-President, by whom they were addressed, proceeded to the house of Mr. Sumner, who appeared with his friend, Mr. James Wormley, and spoke as follows: —

FELLOW-CITIZENS, — I congratulate you upon the great result that has been accomplished. For years my hope and object have been to see the great promise of the Declaration of Independence changed into performance, — to see that that Declaration became a reality. [*Cheers.*] This at last is nearly consummated. I do not say entirely consummated, for it is not.

It is my nature, fellow-citizens, to think more of what remains to be done than of what has been done, — to think more of our duties than of our triumphs; and only to-day I have heard from Philadelphia of a decision in a court of justice that a person of foreign birth could not be naturalized in this country because of color. This is in pursuance of one of those old statutes of the days of Slavery, before the word "white" was stricken from the laws. Repeatedly, from my seat in the Senate, I have made appeals for the expunging

of that word from the laws. I have now a bill before the Judiciary Committee to strike this word from our naturalization laws. What the Committee will do remains to be seen. I need not say that I shall try to impress upon the Senate the importance of passing this bill. It remains also, that equal rights should be secured in all the public conveyances and on all the railroads in the United States, so that no one shall be excluded by reason of color.

It further remains that you here in Washington shall complete this equality of rights in your common schools. You all go together to vote, and any person may find a seat in the Senate of the United States; but the child is shut out of the common school on account of color. This discrimination must be abolished. All schools must be open to all, without distinction of color. In laboring for this, you will not only work for yourselves, but will set an example for all the land, and most especially for the South. Only in this way can your school system be extended for the equal good of all. And now, as you have at heart the education of your children, that they may grow up in that knowledge of equal rights so essential to their protection in the world, it is your bounden duty here in Washington to see that this is accomplished.

Your school system must be founded on Equal Rights, so that no one shall be excluded on account of color. In this way Human Rights will be best established. And I would remind you, although this has not been effected, the victories already gained are the assurance that all that should be done will be done.

You have progressed, step by step, until you have reached your present position; and now it only remains

that you should continue to the end earnest, faithful, and determined; then will the work be completed.

Returning you my sincere thanks, and offering my felicitations on this occasion, I bid you good night.

ADMISSION OF GEORGIA TO REPRESENTATION IN CONGRESS.

SPEECH IN THE SENATE, APRIL 5, 1870.

REPRESENTATIVES from Georgia had been admitted to seats in Congress in July, 1868, under the Act of June 25th of that year; but the subsequent action of her Legislature in expelling its colored members and filling their places with whites, and the continued outrages upon loyalists, had the effect of preventing the admission of her Senators, and in the next Congress of excluding her from representation altogether, — involving the necessity of measures for her reconstruction and admission anew. The first of these was the Act of December 22, 1869, providing, among other things, for the reorganization of the State Legislature, by reinstating its colored members in their seats and purging it of its disloyal elements. To this succeeded a bill in the same terms with the Acts for the admission of Virginia and Mississippi, which was passed in the House with the following amendment, moved by Mr. Bingham, of Ohio: —

"*Provided*, That nothing in this Act contained shall be construed to vacate any of the offices now filled in the State of Georgia, either by the election of the people or by the appointment of the Governor thereof by and with the advice and consent of the Senate of said State; neither shall this Act be construed to extend the official term of any officer of said State beyond the term limited by the Constitution thereof, dating from the election or appointment of such officer, nor to deprive the people of Georgia of the right under their Constitution to elect Senators and Representatives of the State of Georgia in the year 1870; but said election shall be held in the year 1870, either on the day named in the Constitution of said State or such other day as the present Legislature may designate by law."

In the Senate, after several days' discussion of this proviso, as in Committee of the Whole, Mr. Wilson, of Massachusetts, moved a substitute of opposite character, as follows: —

"*Provided*, That, in consequence of the failure of the General Assembly of Georgia to perfect a legal organization for a period of over eighteen

months, it be, and hereby is, declared that the term of service of the said General Assembly shall date from the 26th of January, 1870, and shall continue until the persons to be chosen on the Tuesday after the first Monday of November, 1872, as members of the General Assembly of said State, are qualified: *Provided*, That the last clause of the second subdivision of the first section of the third article of the Constitution of Georgia, in the following words, 'The General Assembly may by law change the time of election, and the members shall hold until their successors are elected and qualified,' shall never be by any Legislature exercised so as to extend the term of any office beyond the regular period named in the said Constitution; and the said General Assembly shall by joint resolution consent to this fundamental condition before this Act shall take effect."

April 5th, Mr. Sumner spoke on the pending question as follows: —

MR. PRESIDENT, — Whatever its result, this debate will be ever memorable. For the first time the African has pleaded in this Chamber.[1] But the curious observer cannot fail to note that he was obliged to plead still for his long-oppressed race. The Senator from Mississippi sits among us, and speaks; but the battle is not yet won. Slavery still asserts her ancient predominance, finding strange voices. No longer is the claim made directly. Nothing is said of Slavery, but the old cause is defended under an *alias*. It is now State Rights which are invoked, or it may be alleged irregularities, — as if State Rights or any irregularities could prevail against the sovereign duty of Congress to see that Georgia is so organized that good people shall be protected in their rights. To this end all else must be tributary, while every pretext of State Rights and every allegation of irregularity are of less consequence than the breath with which they are urged.

It is sad that the Senator from Mississippi should be

[1] March 16th, Mr. Revels, the recently admitted colored Senator from Mississippi, made an eloquent speech in opposition to the Bingham Amendment.

doomed to encounter this spirit. As he entered the Chamber, the evil genius should have departed; but it is not so. And strange to say, the voices by which it has spoken have been the voices of friends. But so it has been always. How often in other days have the opponents of Slavery been saddened by encountering the voices of friends! The argument of technicality is always at hand, as the well-seasoned weapon of the lawyer, — and this debate is no exception.

I had hoped that this question would be decided without debate, at least on our side, — in short, that all would appreciate the exigency, and unite harmoniously in applying the remedy. I am disappointed. But I shall say very little. Feeling as strongly as I do, and seeing the way as clearly as I do, I cannot be entirely silent.

The case is very simple. From unquestionable evidence it appears that Georgia, while still in transition from the old to the new, while still in process of Reconstruction, and before the work is completed, has lapsed into a condition of insecurity and uncertainty, so that, without the intervention of Congress, the people cannot be assured in the enjoyment of their rights.

This is the broad statement, which is confirmed by the present as well as the past. By an unparalleled audacity colored citizens were expelled from the Legislature simply on account of color, while the orgies of the Ku-Klux-Klan prevailed throughout the State. And now this same Ku-Klux-Klan continues its terrors, while former Rebels threaten to regain their pernicious power. The State is in peril. I do not use too strong language. All evidence is at fault, if it be not as I say. To allow these Rebels to prevail is to sacrifice Re-

construction, and to offer up the Unionists, white and black. It is to do a deed of shame and desertion. Are you ready for this degradation? Shall Congress descend to this vileness?

Again I use strong language; but only in this way can I picture the enormity which is now proposed. Among national obligations which cannot be declined or postponed, and which rest primarily on Congress, is the duty of protecting Reconstruction. *Show that Reconstruction is in peril, and you must act.* Now that it is in peril there can be no question. Concurring testimony from opposite quarters, public acts, and open menace, all attest the condition of Georgia. Others in this debate have entered into details. I give you the irresistible, unanswerable conclusion.

And here occurs the Bingham Amendment, which, however intended, is only an engine of Rebel power. This is its true character, and nothing else. Howsoever it may seem, it must be regarded in its consequences. We must look from the word to the thing. It is not enough to see how it reads; we must see how it works. According to its text, the present Legislature, whose natural existence has been changed by wrongful addition and wrongful subtraction proceeding directly from the old Rebellion, is terminated at a specified day in the coming autumn, and a new election is ordered, without taking into consideration the past or the future, — without considering that thus far it has sat as a provisional Legislature only, although chosen to sit under the State Constitution, — without considering how it has been despoiled of its legislative character and just rights by hostile influence, and how a new election will be a direct appeal to this same hostile influence, giving to

it a letter of license and unloosing the Ku-Klux-Klan. The Bingham Amendment is in few words, but they are words of despair to the loyal men of Georgia, and words of cheer to the disloyal.

I have listened to the arguments in its favor. Do I mistake, when I say that they all resolve themselves into technicality? At one moment we have allegations of "irregularity," and at another of "estoppel"; and such technicalities play their part, while the good people of Georgia are sacrificed. We are estopped, so it is said, by the Act of December 22, 1869, which, failing to provide for the re-performance of certain conditions-precedent, recognized the validity of the legislative acts by which they had been performed. Very well, — suppose the legislative acts are recognized as valid, what then? Because the ratification of the Constitutional Amendments is recognized, does it follow that Congress is thereby "estopped" — such is the word — in completing the work of Reconstruction? I cannot comprehend this reasoning. It would be of value in a county court, but it is out of place in the Senate of the United States, on a question of Reconstruction. To my mind, all this is a matter of supreme indifference. The powers of Congress are above any such incident, and nothing has occurred to impair them in any way. They exist now as at the beginning, awaiting the discretion of Congress.

Do you ask where these powers are found? Of course, in the two Constitutional Amendments already proclaimed, — being ample sources, if none others existed. Out of these Congress is authorized to do all that is needed to enforce Emancipation and to protect the rights of the citizen. This is plain, very plain.

But there are three other sources, each of which is overflowing. The first is from the necessity of the case, *ex necessitate rei*. This is one of the grounds on which Chief-Justice Marshall asserted the power of Congress over the Territories;[1] but it is equally applicable in the work of Reconstruction. From the necessity of the case this power must be in Congress, as without it Reconstruction could not be completed. You must renounce Reconstruction or recognize this power.

Then comes the "guaranty" clause, which is another bountiful, all-sufficient fountain. The United States are to guaranty a republican form of government to the States. But this guaranty can be executed only through Congress. This clause is at once old and new. It is old as the Constitution itself, but it is new in its practical exercise. And the reason is obvious. So long as Slavery prevailed, this mighty power slept; but it was the sleep of a giant. At last it has awaked, never again to sleep or slumber. From this time forward the duty of the nation to guaranty a republican government to all its parts will be constant and ever-present; and this duty is reinforced by all needful powers. The guaranty is continuing and perpetual, and it must be executed at all hazards. In its execution Congress must fix the definition of a republican government. How often have I said this! — but I shall not fail to repeat it so long as the occasion requires. To Congress belongs the duty of determining what is a republican government, and then it must see that such a government prevails in every State.

If in any State the existing government fails according to the just standard, or if it is in any way menaced,

[1] American Insurance Co. *v.* Canter: 1 Peters, S. C. R., 542.

then must Congress interfere to execute the sleepless guaranty. And in this interference it may act according to its discretion, determining the occasion and the "means" to be employed. It may act by repression or by precaution, and it may select any "means" proper for the purpose. To say that it may not act by precaution as well as by repression is contrary to reason, and I may say to common sense. Whatever may be done by repression may be done by precaution also. Such is the experience of life in other things, and this obligation of guaranty is subject to the universal law. In the selection of "means" the whole field and the whole arsenal are at its command. Not an instrument, not a weapon, proper for the purpose, which it may not grasp. Here the language of Chief-Justice Marshall, so often quoted, harmonizes with the claim of power which I now make: —

"The Government which has a right to do an act, and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means; and those who contend that it may not select any appropriate means, that one particular mode of effecting the object is excepted, take upon themselves the burden of establishing that exception." [1]

In our recent debates able Senators have denied everything. They will not concede the "means"; and they even ignore this great clause, which, as Cicero said of the ancient *Senatusconsultum*, has rested so long like a sword in its scabbard.[2] But there it is. Senators

[1] M'Culloch *v.* The State of Maryland: 4 Wheaton, R., 409.

[2] "Habemus . . . . Senatusconsultum, verumtamen inclusum in tabulis, tanquam gladium in vagina recouditum." — *Oratio I. in Catilinam*, Cap. 2.

may ignore it; they may not see it; but there it is in the Constitution. In attempting to belittle this clause Senators only show how little they appreciate the lofty unity of the Republic. Other clauses are important in the machinery of government; but this guaranty makes the Republic one and indivisible, being One out of Many, and places the rights of all under the protecting power of the nation.

Before the extinction of Slavery, State Rights were successful against this guaranty. To invoke this tyrannical pretension was enough. How often was it heard on this floor! How completely did it dominate the Constitution itself! But the habit still continues, and we are still compelled to hear this same pretension, under which States *played the turtle*, drawing head, legs, and tail all within an impenetrable shell. With the overthrow of the Rebellion on the bloody field this pretension should have been abandoned and forgotten. A State is not a turtle, which can shut itself within its shell, and enjoy its own separate animal existence; but it is a component part of this great Republic, with which it is interlaced and interlocked so as to share with every other State a common life, subject to one and the same prevailing law. To insist that a State can play the turtle now, as in the days when Slavery ruled, is to dishonor the Constitution, and to abandon the crowning victory over the Rebellion.

Do you ask for the power in the Constitution to enter into a State and establish republican government? I give it to you in an immortal text. To question it is to show an ignorance of language which in this case is clear beyond criticism, and an ignorance also of the true genius of American institutions, where unity of

rights is the Alpha and the Omega. The national motto, *E Pluribus Unum*, is another expression of that great unity by which the States are lost in the Nation. And this guaranty I now invoke for the protection of the good people of Georgia, and for the protection hereafter of Human Rights, when imperilled anywhere within the limits of the Republic.

But there are other and exceptional reasons why Georgia is still within the control of Congress. The process of Reconstruction in this State is not yet completed; so that the government there is simply provisional, and nothing else. This is only according to the Reconstruction Act of March 2, 1867, where it is provided, —

"That, until the people of said Rebel States shall be BY LAW admitted to representation in the Congress of the United States, *any civil governments which may exist therein shall be deemed provisional only*, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same."[1]

Nothing can be more explicit. Until the people of the Rebel States are "by law" admitted to representation, they are under the power of Congress. Everything done is inchoate, and nothing more. But Georgia is not yet "by law" admitted to representation, and we are now considering when and how such admission shall take place. Meanwhile, according to express language of the Act, the government is "provisional only." Nor is this all; for the Act proceeds to declare further that this government is "in all respects subject to the paramount authority of the United States at any time to

[1] Statutes at Large, Vol. XIV. p. 429.

abolish, modify, control, or supersede the same." Words cannot be stronger. "Abolish," "modify," "control," "supersede." To argue against their plain meaning is simply ridiculous. To insist that the existing government is beyond the reach of Congress, to be extended or abridged, to be recognized or superseded in its discretion, is preposterous. The power is reserved in terms almost excessive in fulness. Therefore do I say there can be no question of power on the present occasion. As well question that the sun shines or the river flows.

There being no question of power, there arises, then, the obligation of duty. Congress has the power to protect republican institutions in Georgia, and to protect the good people there; and it has the further power to superintend the work of Reconstruction to the end. All this it must do. It cannot abandon the appointed work. Of course it will ascertain the exact condition of things, and will then apply the remedy. No excuse of State Rights, no fine-spun technicality, no plea of irregularity, no argument of "estoppel" can be heard. All these are trivial and unworthy against the commanding duty. Georgia must be saved to herself and to the Union, and Congress must supply the means.

Several courses are open to Congress, and all equally within its powers; for all are derived from the same fountains.

1. Georgia may be remanded for an indefinite period to a condition like that of the Territories, subordinate in all respects to the jurisdiction of Congress, which may meanwhile mould it into loyalty and order.

2. Or the State may be subjected to a military government, until such time as it is fit in every respect for self-government.

3. Or the existing provisional government may be invested with the powers of the State, in such form and way and for such term as Congress in its discretion shall think best.

I doubt not that there are other modes within the jurisdiction of Congress; but these are all contained substantially in the three I have named.

It is not now proposed to remand Georgia to a territorial condition, or to subject the State to a military government. But it is proposed to place it in charge of the existing provisional government, which is to continue for a full constitutional term; and this is done as the best way of guarding against disturbing forces from the late Rebellion. It is said that this will be sufficient. I hope that it may be. I am satisfied that it is the least Congress can do in the exigency. Anything short of this will be the betrayal of those who have a right to our protection.

Against this simple and moderate proposition is interposed the Bingham Amendment, which, however plausible in form, is destructive in consequence. It is enough that it hands over the State to misrule and violence. Senators, how can you do this thing? How can you hesitate to take every heed and precaution against even the possibility of such an occurrence? You have the power. Then must you exercise it. In the recent history of Georgia nothing can be adduced to make you hesitate. On the contrary, all things, when properly understood, conspire to constrain the exercise of this power.

How feeble is the argument, that, *because* Governor Bullock was chosen Governor and the Legislature commenced its session at a given date now past, therefore in this process of Reconstruction the constitutional term

of the Governor and of the Legislature must be limited to two years from that date! Besides ignoring all the controlling powers of Congress, this assumption ignores also the conduct of this very Legislature by which its organization was for a while defeated. Nothing is clearer than that the termination of the provisional government in Georgia was contingent on the performance of certain covenants, express and implied. These covenants have been outrageously violated. The very form of government underwent a change when persons clearly ineligible from disloyalty were allowed to take part in it, while citizens entitled to equal rights, and especially protected by the Reconstruction Laws, were tyrannically ejected from the Legislature. There was for the time being a usurpation. Had this violation of underlying covenants been anticipated, Reconstruction would have been postponed. No Senator will pretend the contrary. But Congress, in view of what has occurred, may justly do what it would have done, had it anticipated the result. It may postpone Reconstruction, — treating the Legislature meanwhile as provisional, and recognizing its acts only so far as in the judgment of Congress they are fit to be recognized.

If instruction be needed on this point, it will be found in the authoritative words of publicists, showing how even the terms of a treaty may be disregarded where there has been a change in the form of government.

Thus, Vattel does not hesitate to say, —

"It may say, upon a good foundation, that it would not have entered into an alliance with that nation, had it been under the present form of government."[1]

[1] Law of Nations, Book II. ch. 12, § 197.

One of our own publicists, Alexander Hamilton, has dealt with the same question in congenial language: —

"Contracts between nations, as between individuals, must lose their force where the considerations fail.

"A treaty pernicious to the state is of itself void, where no change in the situation of either of the parties takes place. By a much stronger reason it must become voidable at the option of the other party, when the voluntary act of one of the allies has made so material a change in *the condition of things* as is always implied in a radical revolution of government."[1]

We but follow the simple principles of these texts, when we declare that the outrage perpetrated in Georgia so far changed the condition of things that the Legislature lost all title to recognition by Congress. It ceased to be the Legislature contemplated by Congress. Nor was it the first regular Legislature contemplated by the State Constitution. It was irregular, abnormal, revolutionary. To recognize such a body as the first regular Legislature is a fraud on the State Constitution. To insist that members chosen as the first regular Legislature shall be treated as provisional only is unjust to them. To insist that such members shall be despoiled of the regular term is a direct surrender to the disorganizers, who will rejoice to see Congress sacrifice the true men to whom it owes protection. To my mind there can be no surer rule than so to act that these disorganizers shall not rejoice. Especially will I not please them at the expense of patriot citizens.

In the exercise of this power Congress is acting on

[1] Hamilton to Washington, April, 1793, — Cabinet Papers: Works, ed. J. C. Hamilton, (New York, 1851,) Vol. IV. p. 368.

principles of Equity. And here allow me to say, that, in superintending the process of Reconstruction, Congress is a Court of Equity, bound to supply deficiencies in the existing law, to enjoin against threatened wrong, and generally to see justice done in spite of technicalities. Here I only follow the best definitions of Equity from the earliest times. No student can forget that profound definition by Aristotle,[1] adopted by Grotius[2] also, — "Equity is the correction of that wherein the law by reason of its universality is deficient"; nor can he forget the phrase of Lord Bacon, when he gives it a higher character still, namely, "The general conscience of the realm, which is Chancery."[3] These two philosophers were each right; for Equity is at once a correction of law and the voice of conscience. In conformity with these principles, an ample jurisdiction has been established, under which, among other things, the powers of ordinary courts are supplemented by more flexile methods, the rules of law are prevented from becoming instruments of injustice, persons are restrained from asserting doubtful rights in a manner productive of irreparable damage, and, in the absence of positive law, universal justice is maintained. It has been a constant aspiration to bring Law and Equity into harmony. Lord Chancellor Eldon relates that on one occasion Lord Chief-Justice De Grey said, he "never liked Equity so well as when it was like Law"; and he adds, "The day before I heard Lord Mansfield say he never liked Law so well as when it was like Equity."[4]

[1] Nicomachean Ethics, Book V. ch. 10, § 7.

[2] De Æquitate, Cap. 3.

[3] Reading on the Statute of Uses: Works, ed. Spedding, (London, 1859,) Vol. VII. p. 401.

[4] Dursley *v.* Berkeley: 6 Vesey, Ch. R., 260.

In the same spirit, Bishop Burnet says of Sir Matthew Hale: —

"As great a lawyer as he was, he would never suffer the strictness of law to prevail against conscience; as great a chancellor as he was, he would make use of all the niceties and subtilties in law, when it tended to support right and equity."[1]

Such is Equity, and such are the principles which preside in its courts. No strictness of law can prevail against conscience. The niceties and subtilties of law are all to be used in support of right and equity. These noble and authoritative rules are a pathway of light. Against all strictness of law conscience must prevail. If there are niceties and subtilties in the law, let them all be employed on the side of right and equity. That is according to reason and the harmonies of the Universe. It is Equity.

Am I not right, when I now insist that Congress is a High Court of Equity with Georgia at its bar? It only remains that it should apply the principles of Equity, especially supplying deficiencies in the existing law, enjoining against threatened wrong, and seeing that justice is done, — all technicalities to the contrary notwithstanding. Against all strictness of law conscience must prevail; and if there are niceties and subtilties in the law, they must all minister to the completion of Reconstruction. To this end, the process of Congress must go forth in such form as will best establish peace and security in that State under the safeguard of equal laws. With the execution of this process Georgia will be a republican government in reality as in name.

[1] Life and Death of Sir Matthew Hale, (London, 1682,) p. 106.

The assertion of this power is necessary now, not merely for Georgia, where it will bring peace and security, but also for the Nation, which will be elevated in character and strengthened in that unity against which the Rebellion dashed itself in battle. An ancient sage has left in perpetual testimony, that the best government is where an injury to a single citizen is redressed as an injury to the whole nation. In harmony with the saying of the sage is the fundamental law that protection and allegiance are reciprocal, so that the Nation owes protection in exchange for the allegiance it receives. The duties of the Nation are correlative with the duties of the citizen. Are we a Nation? Surely we are not, if any State can without correction deny Equal Rights within its border, or in any way imperil the tranquillity of the Republic. There was a time when all this might be done with impunity, — when a State was permitted to exalt itself above the Nation, — when a State determined for itself the standard of Human Rights, — when there was one rule of citizenship at Boston and another at New Orleans, and as many different rules as there were States, — when State Rights were made the protection for all that a State chose to do, and the turtle, with its impenetrable shell, was the prototype of a political community constituting part of the Nation. But this time has passed. A State can no longer play the turtle; State Rights have ceased to be a protection for all that a State inclines to do; there can be but one rule of citizenship in all the States, being the same in Boston and New Orleans; no State can determine for itself the standard of Human Rights; no State can exalt itself above the Nation; nor can any State without correction deny Equal

Rights within its borders, or in any way imperil the tranquillity of the Republic. The judgments of courts, the arguments of Senators, with all possible learning and all possible skill, are impotent against that prevailing law which places the National Unity and the Equal Rights of All beneath the safeguard of the Nation. There they will remain from this time forevermore, making the Republic more than ever an example to mankind.

After various amendments, the bill was finally taken into a new draft, leaving the questions presented in the Bingham Amendment to the determination of the State Constitution, and in this form passed both Houses without a division.

INCOME TAX.

Remarks in the Senate, April 7, 1870.

The Senate having under consideration a Joint Resolution from the House, with an amendment by the Committee on Finance, declaratory of the meaning and intention of the law relating to the Income Tax, Mr. Sumner said, —

I SHALL make no opposition to the amendment of the Committee on Finance, as I understand it is to relieve the Department from a difficulty which has arisen in the interpretation of a statute; but I desire to say now — and I take this earliest opportunity — that I think the income tax ought not to be continued any longer.

Mr. Conkling [of New York]. Reëstablished, you mean.

Mr. Sumner. Very well; I accept the amendment of the Senator from New York: it ought not to be re-established.

Mr. Scott [of Pennsylvania]. It has expired.

Mr. Sumner. It has expired. There was an understanding, when it was established, that it should live only into the year 1870. It has now reached its natural death, and no resurrection ought to operate upon it. An income tax is a war tax. It ought not to be made

a peace tax. "The medicine of the Constitution should not become its daily bread." I am against the continuance of this tax; and if the occasion required, I would go forward and assign reasons. But I am unwilling now to enter into any general discussion of the question, as it is not directly presented by the proposition before the Senate; but I hope the Senator from Ohio [Mr. SHERMAN], who has charge of this bill, and is Chairman of the Finance Committee, will bear in mind the radical objection to any reëstablishment of this tax, and will also bear in mind another important proposition, — that the taxes of the country must be reduced. I have on another occasion, and more than once, said, "Down with the taxes!" — and I repeat the cry now. We cannot do better than to begin with a tax inequitable in its operation, and which, according to the original understanding when first adopted, was to end now.

After further debate, in which different Senators participated, Mr. Sumner spoke again, as follows: —

MR. PRESIDENT, — I should not have said another word but for the very confident statement made by my friend, the Senator from Ohio, that at a proper time he will show the fairness of this tax. Sir, if he can show its fairness, he will do what no person before him has ever been able to do, — what no speaker in Parliament, no speaker in Congress, no writer on taxation or political economy has ever been able to accomplish. The Senator assumes in advance a very considerable task. Let me commend him to the candid, absolutely impartial, and authoritative words of Mr. McCulloch, in his work on Taxation and Funding. We all know the authority of this writer; none better can

be adduced. A committee of this body might be well satisfied, could it have the sanction of this writer. Now what does he say of the tax on income? One would think he had listened to my honorable friend on this question. Of its effects he says:—

"It would no doubt have the supposed effects, [*i. e.* be successful,] could it be fairly assessed. But the practical difficulties in the way of its fair assessment are not of a sort that can be overcome. And the truth is, that taxes on income, though theoretically equal, are in their practical operation most unequal and vexatious."[1]

Mr. Sherman. Read the paragraph immediately before that, in which he speaks of the theory of an income tax.

Mr. Sumner. I should rather read a paragraph after it, with the permission of the Senator. [*Laughter.*] I have read the chapter, and I understand it; and there are words here to which I call the attention of my friend:—

"After the Legislature has done all that can be done to make it equal, it will be most unequal."

Strong language that!

"To impose it only on certain classes of incomes, or to impose it on all incomes, without regard to their origin, is alike subversive of sound principle. Nothing, therefore, remains but to reject it, or to resort to it only when money must be had at all hazards, when the ordinary and less exceptionable means of filling the public coffers have been tried and exhausted, and when, as during the late war, Hannibal is

[1] Treatise on the Principles and Practical Influence of Taxation and the Funding System, (2d edit., London, 1852,) p. 120.

knocking at your gates, and national independence must be secured at whatever cost. An unreasoning necessity of this sort is the only satisfactory justification of taxes on property and income."[1]

This is the voice of Science. It is not the voice of a political partisan, or of the representative of any Administration anxious to establish a system of taxation, but it is the voice of Science itself, speaking by one of its — I may say chosen authorities. How can this testimony be answered? If you come back to an authority of a different character, take a statesman. The Senator from California [Mr. CASSERLY] has referred to Sir Robert Peel, who is known as the modern author of the income tax; but he has left his testimony behind. I quote words from different speeches, showing how he has characterized it. He admitted that it was "a tax which had hitherto been reserved for time of war"; and that "the question of its imposition was, whether the political necessity was of such magnitude and urgency as to justify it"; and then that it "ought to be accompanied by measures of simultaneous relief." Then, "he did not deny that it was an inquisitorial tax"; and again, that "a certain degree of inquisitorial scrutiny was inseparable from an income tax"; and further, that "a good deal of inconvenience inevitably arose from the inquiries that must be instituted into the properties of men, in the imposition of an income tax"; moreover, that "one great objection to the income tax was, that it fell with peculiar severity upon those who were determined to act honestly."[2]

[1] Treatise on the Principles and Practical Influence of Taxation and the Funding System, (2d edit.,) p. 134.

[2] Hansard, Parliamentary Debates, 1842, 3d Ser., Vol. LXI. coll. 909, 913; LXII. 158, 169, 1077.

In harmony with his testimony is that also of Mr. Gladstone, named by the two Senators who have preceded me. The Senator from Ohio reminds us that Mr. Gladstone has sustained an income tax. Have we not all sustained an income tax?

Mr. Sherman. He does it this very year.

Mr. Sumner. This very year, and why? The Senator knows perfectly how England is pressed by taxation, — how difficult it is to find objects for taxation in order to meet the great demands upon her exchequer. He knows that England is obliged now, in time of peace, to meet the responsibilities of war. It is on account of that terrible war debt which still hangs over her, the interest of which must be annually paid, that she is obliged to assume even in a period of peace this responsibility. I think we are in no such condition. Our war is happily over, and I know no reason why the responsibilities and obligations assumed during that period should be prolonged now during the reign of peace. Sir, let us put an end to the war. And I know no better way to give our testimony to the end of the war than by stopping that taxation which was born of the war.

MORE WORK TO BE DONE.

LETTER TO THE AMERICAN ANTISLAVERY SOCIETY AT ITS FINAL MEETING, APRIL 8, 1870.

SENATE CHAMBER, April 8, 1870.

GENTLEMEN, — You propose to celebrate the triumph of Equal Rights at the ballot-box, and at the same time to abandon that famous shibboleth by which you once rallied the country against Slavery.

It was said of Wolfe, the conqueror at Quebec, that he died in the arms of Victory; and such will be the fortune of your noble Society. "They run!" was the voice that fell on the ears of the expiring General. "Who run?" he exclaimed. "The enemy," was the answer. "Now, God be praised, I shall die in peace," said he, and his battle ended.

The Antislavery Society may now die in peace. Slavery is ended. But I do not doubt that the same courage and fidelity which through long years warred against this prodigious Barbarism will continue determined to the end in protecting and advancing the work begun.

I do not think the work finished, so long as the word "white" is allowed to play any part in legislation, — so long as it constrains the courts in naturalization, — so long as it rules public conveyances, steamboats, and railroads, — so long as it bars the doors of houses bound by law to receive people for food and lodging, or licensed as places of amusement, — so long as it is inscribed on our

common schools; — nor do I think the work finished until the power of the Nation is recognized, supreme and beyond question, to fix the definition of a "republican government," and to enforce the same by the perfect maintenance of rights everywhere throughout the land, according to the promises of the Declaration of Independence, without any check or hindrance from the old proslavery pretension of State Rights. It must be understood that every State, while perfectly free in its local administration, is subject to the supremacy of the Nation, whenever it touches the Rights of Man, — so that, according to the ancient words of Demosthenes, the law shall be "a general ordinance, *equal and alike to all.*"[1] Let there be Equality before the Law, and all rights are assured. In this cause count me always as your devoted and grateful fellow-worker.

Accept my thanks for the invitation with which you have honored me, and believe me sincerely yours,

CHARLES SUMNER.

TO THE COMMITTEE OF THE ANTISLAVERY SOCIETY.

[1] Contra Aristogeitonem Oratio I., ed. Reiske, (Lipsiæ, 1770,) p. 774, 15.

EDUCATION.

REMARKS IN THE SENATE, MAY 9, 1870.

THE question being on an amendment to the Legislative Appropriation Bill, reducing the appropriation for the Bureau of Education from $14,500 to $5,400, in conformity with a previous reduction of the clerical force, Mr. Sumner said: —

MR. PRESIDENT, — I hope there may be no hesitation in refusing to agree to this amendment. It seems to me that the House of Representatives has acted wisely in increasing the appropriation, and we shall act very unwisely, if we fail to unite with the House. We, Sir, are a Republic; we are living under republican institutions; and, as I understand them, one of their essential elements is Education. Now, Sir, here is an agency associated with the National Government, having education for its object; and what is the appropriation proposed by our excellent committee? It is $5,400: that is all. Looking on the opposite page of the bill, I find an appropriation of $9,000 for stationery, furniture, and books for the Interior Department; I find an appropriation of $16,000 for fuel and lights for the Interior Department; and yet we propose to give only $5,400 to create and support a Bureau of Education! Sir, is that decent? It seems to me, in this age, at this period of our history, when more than ever we are beginning to see the transcendent advantage of education, how much we owe to light, —

"Hail, holy light!" —

it seems to me strange that we should now cut down the appropriation for the Bureau of Education. Turning on, I come to the Department of Agriculture, and there I find an appropriation of $72,170; and then I turn back again to the $5,400 for the Bureau of Education. I think the House did not go far enough, when it made the appropriation $14,500. I would make the appropriation as large as that for the Agricultural Department; and I know full well the period is at hand when all of you will rejoice to make an appropriation for the Educational Bureau twice more than that for the Agricultural Department.

As to the question whether there is any existing statute to sanction this appropriation, I dismiss it entirely. It is merely a technicality; and it ought not now, on this Appropriation Bill, at this stage, after the vote of the House, to be allowed to stand in the way.

Mr. Sherman, of Ohio, supported the amendment as a step toward the abolition of the Bureau, which he regarded as useless, — at the same time urging the withdrawal, for consideration in a full Senate, of a proviso, just voted, for the restoration of the original clerical force; and it being thereupon suggested that the whole matter be passed over till the next day, Mr. Sumner said: —

Before that passes away, I wish to make one comment on a single word of the Senator from Ohio. The Senator said that he hoped we should take no backward step; and yet his speech and his proposition were a backward step. Sir, there is nothing that any State or any nation can do for education that is not for civilization itself; and now the Senator from Ohio is against appropriating a paltry sum of $10,000 for education.

Mr. Sherman. No, — for two or three clerks.

Mr. Sumner. My friend will pardon me, — for education. He is against making this paltry appropriation for education; and he reminds us that in his great State $3,000,000 are set apart for this purpose. Is it not shameful, that, while $3,000,000 are set apart for this purpose in his great State, so small a sum as is now proposed is to be set apart by the Nation? Am I told that the Nation has nothing to do with this question? Allow me to reply at once, it has everything to do with it; it has more to do with it than the State of Ohio, inasmuch as in the Nation are all the States. Ohio is only one State; all the States compose the Nation; and the Nation is responsible for the civilization of all the States. The Nation is the presiding genius, not only of Ohio, but of all the associate States of the Union. Therefore, Sir, should the Nation by every means in its power, by appropriation, by a department, by a bureau, by clerks, by officers, do everything possible to promote the interests of education.

But the question may be asked, What can it do? With the sum proposed, unhappily, very little, — too little. But let us not give up doing even that little. A little in such a cause is much. If nothing else, information may be accumulated, statistics may be gathered, facts may be brought together, which can be laid before those interested in education all over our own country and in foreign lands. That may be a specific object of the Bureau of Education.

Then, again, it may supply a general impulse to education in every State, — even in Ohio, with its $3,000,000 appropriated to that purpose. Permit me to say, the State of Ohio, great as it is, is not yet above the reach of educational influences; and I am sure that this Bu-

reau, if properly organized, might be of advantage even to the great State which my friend represents with so much ability on this floor. I therefore adopt the language of my friend, when he said, "Let us take no backward step." I would increase this appropriation, rather than diminish it. I wish it were $100,000, — ay, Sir, $500,000.

The amendment was rejected, — Yeas 19, Nays 38.

NO EXCLUSION OF RETIRED ARMY OFFICERS FROM CIVIL OFFICE.

Remarks in the Senate, May 12, 1870.

The Senate having under consideration a bill for the reduction of the Army, reported by Mr. Wilson, of Massachusetts, from the Committee on Military Affairs, as a substitute for one from the House, and the pending question being on an amendment by Mr. Trumbull, of Illinois, restoring to its original form in the House bill the provision "That it shall not be lawful for any officer of the Army of the United States on the active list to hold any civil office," by striking out the words "on the active list," Mr. Sumner said: —

MR. PRESIDENT, — There is a principle of our institutions, to which reference is constantly made in this debate, which is worthy of constant memory. It is the subordination of the military to the civil power. Mr. Jefferson, in his Inaugural Address, so memorable as a representation of the fundamental principles of republican institutions, expressly declares the subordination of the military to the civil an essential element of a republic. I accept that idea; and I confess that I have always admired in our system that the Navy Department and the War Department each is in charge of a civilian; that neither a naval officer nor a military officer, in the ordinary course of affairs, takes his place at the head of either of these Departments, to the end that the Navy and the Army shall see in a civilian the visible head of each. In that I recognize the genius of the Republic.

But now, Sir, for the application. I confess I agree entirely with the argument of the Senator from Ohio [Mr. SHERMAN]. I consider that the demands of republican institutions are completely satisfied, if we exclude men in active service from taking part in civil life. To go further is to tie the hands of the appointing power, — to take from the country the opportunity of securing, it may be, important service, — and, I think, is to be needlessly hard on men who in their day have rendered good service to the country. It does seem to me that cases may occur where it may be important to take into the civil service a retired officer. Why may not that occur in the natural course of events? There is talent, there is experience. Are our offices so well filled, is the public service so completely performed, that we can afford to exclude talent and experience?

MR. CONKLING. Is not that much more true in regard to active officers?

MR. SUMNER. There, Sir, you come in conflict with the fundamental principle of republican institutions. You cannot, as I submit, fill civil offices from the active service of the Army or Navy without conflict with that fundamental principle.

MR. CONKLING. Why?

MR. SUMNER. But I find no such conflict, if you take an officer on the retired list.

MR. CONKLING. Will the Senator point out the distinction?

Mr. Sumner. The Senator asks, "Why?" For the obvious reason, that, when the officer is on the retired list, he has, for all the ordinary purposes of the service, ceased to be an officer, — he enjoys what I think has been called a pension, which in reality is a pension under another name, — and he has ceased to be in the active, practical service either of Navy or of Army. On that account I see a clear distinction.

Therefore it seems to me, for the sake of the public service, and that we may not be guilty of hardship to any portion of the community, that the words introduced by my colleague in the pending bill ought to be preserved. I hope they will not be struck out.

The amendment prevailed, — Yeas 34, Nays 22.

ARCTIC EXPEDITIONS.

Remarks in the Senate, May 27, 1870.

On the question of an appropriation of $100,000 for "one or more expeditions towards the North Pole," moved by Mr. Sumner, under a resolution of the Committee on Foreign Relations, — it being objected by Mr. Morrill, of Vermont, that "we could not afford to embark in such an enterprise," that "the money was needed for purposes altogether more pressing," Mr. Sumner remarked, —

THE Senator from Vermont has just moved and carried a large appropriation for the extension and adornment of the Capitol grounds, and now he opposes a smaller appropriation having for its object the extension of geographical knowledge in this hemisphere. I voted gladly for the proposition of the Senator; but he does not favor mine. He is against the North Pole. His mood is not unlike that of Lord Jeffrey, when he broke forth against it. Somebody, to whom he had spoken impatiently on the subject, complained to Sydney Smith of the language he had employed, being nothing less than "Damn the North Pole!" — when the great wit endeavored to soothe the injured man, saying, "Do not be concerned; I have heard him speak disrespectfully of the Equator." I presume the Senator from Vermont would do the same thing, if there were any question of exploration under the Equator.

I doubt not that in former days the Senator has circulated under his frank Herndon's "Exploration of the Valley of the Amazon." Here was an Equatorial

exploration by which our country has gained honor. There is nothing in our history by which we have acquired a better fame than what we have done for science. The scientific reports on our Western territory are much valued where science is cultivated. And the United States Exploring Expedition, organized by the care of John Quincy Adams, has given to our Republic a true renown. Who would blot from our annals this invaluable record? But we, too, may do something not unworthy of companionship with this early expedition.

Thus far our Government has attempted nothing for Polar exploration. Kane and Hayes have added to our geographical knowledge, and inscribed the names of honored countrymen on Arctic headlands; but their expeditions proceeded from private munificence. The time has come when the Government should take up this work, nor leave the monopoly to foreign powers. Perhaps I desire too much; but I would have my country explore this whole North American Continent, not only in the interest of science, but for the sake of the near future. It is easy to see that our Capitol grounds will be broader than anything included in the amendment of the Senator from Vermont, and I hope we shall not delay their exploration.

Nor should we be daunted by difficulties. I cannot doubt that the time will come when every quarter of the globe, with every corner, every recess, whether at the Equator or the Pole, whether land or sea, will be brought within the domain of knowledge, and find its place on the map, so that there shall be no *Terra Incognita;* but we must do our part in this triumph. Do not say that this knowledge is without value. Just in

proportion as we know the earth can we use and enjoy it. Therefore, for our own advantage and for our good name ——

The Vice-President. It is the duty of the Chair to remind the Senator from Massachusetts that his five minutes have expired.

The appropriation was voted, — Yeas 28, Nays 25.

ONE CENT POSTAGE, WITH ABOLITION OF FRANKING.

SPEECH IN THE SENATE, JUNE 10, 1870.

THE Senate, as in Committee of the Whole, having under consideration the House bill "to abolish the franking privilege," Mr. Sumner said: —

MR. PRESIDENT, — This debate began with a simple proposition to abolish the franking system, sometimes called "the franking privilege." The bill for this purpose rudely terminates the existing system, without supplying any substitute, and without taking advantage of the proposed change to reduce the rate of postage. The bill is destructive, but in no respect constructive. It pulls down, but does not pretend to set up. It abolishes an old and time-honored, if not beneficent system, under which the people have grown in knowledge; but it does not attempt to provide any means by which the original object of the system shall be accomplished. It is a raw, crude, naked proposition. To adopt it in its present form would be as if you voted the destruction of this Capitol, without providing any place for the meeting of Congress, or economizing the ruins you made.

THE FRANKING SYSTEM, AND NOT THE FRANKING PRIVILEGE, IN OUR COUNTRY.

IN England the power to frank was originally conferred as a "privilege," and it assumed this character

completely with time. When O'Connell wrote to a young aspirant, who had just been elected to Parliament, "You can frank to-night," he announced a privilege. So far as this power in our country can be regarded as a privilege, it has no title to favor, — not the least. But whatever may be its character, nothing is clearer than that it should not be a burden on the postal service. With regard to the frank there are two obvious principles: first, so far as it is a privilege, it must be abolished; and, secondly, so far as it is allowed to remain, it must not be at the expense of the Post-Office, but, like other national services, be paid by the National Treasury. Better still, let it all disappear in a renovated system, where the rate of postage shall render the frank unnecessary.

The franking system in our country cannot be treated alone. It is part of a larger system, being the postal service of the country, and must be regarded in its relations to this service. In its most simple statement it is the freedom of certain letters, documents, pamphlets, and seeds in the public mails; but its true character is seen only in its operation. The franking system is that part of the postal service by which the people are enabled without cost to address their Senators and Representatives in Congress, and also the Departments of Government, while these answer without cost, thus bringing all near together; it is also that part of the postal service by which public documents are circulated throughout the country, and though much is distributed to little purpose, yet much is of unquestionable advantage. Seeds, speeches, and pamphlets are also distributed in the same way; nor can there be any question of the good influence from this agency. All

these are component parts of the existing postal system. Strike out these, and the postal system of our country is changed. It is not the system which has existed from the beginning of our Government, under which the country has grown in knowledge and power.

To those who speak lightly of the franking system I indicate briefly what it has done. It has brought the people and the Government nearer together than people and Government ever were before. It has distributed innumerable documents by which knowledge in government, in science, and in the practical arts has been advanced. It has lent itself to the dissemination of truth, especially in speeches; so that it has been preacher and schoolmaster, with the whole people to hear and to learn. During the long tyranny of Slavery it was by the franking system that the arguments and protests against this wrong were carried among the people; and when Slavery broke forth in rebellion, the franking system became the powerful ally of the national cause; and now in the education of the States lately in rebellion this very franking system is the same powerful ally. It may be politic, discreet, and economical to dispense with it, but not, I think, without providing some substitute or commutation.

PROPOSED SUBSTITUTE.

To meet the exigency of the pending proposition I have introduced a bill, whose character may be seen in its title, — being "to simplify and reduce the rate of postage, to abolish the franking system, to limit the cost of carrying the mail, and to regulate the payment of postage."[1] While abolishing the franking system, I

[1] Senate Bill, No. 793, — introduced April 15, 1870.

try to provide a substitute, and at the same time, by associate provisions, to simplify and reduce the rate of postage. Taking advantage of the proposed change, I would revise the whole postal service, and bring it into harmony with the demands of republican civilization. Here the example of England is an important guide. The franking system there was an indulgence, or privilege, and little else. The "Quarterly Review," while recognizing it as an abuse, likened it to "the concomitant and greater one which stands on the same ground, — *exemption from arrest.*"[1] It was not a system important in the relations between Government and people, and yet it was abolished only in conjunction with the establishment of a uniform letter-postage at one penny. But just in proportion as the franking system is important with us should its abolition be accompanied by a corresponding reduction in postage.

The copper unit of value in England is a penny, and this was adopted as the rate of postage there. With us the copper unit of value is a cent, and this I would adopt as the rate of postage here.

There are other provisions in the bill to which I call attention, especially the new facilities for newspapers and periodicals; also the requirement that all the business of the Post-Office shall be by stamps, so that no money shall be collected or received by any clerk in the office. By this process, at once simple, economical, and efficient, all postages will be collected, and there will be no necessity for accounts. The stamp office will be the universal money office, and the vendor of stamps will be the universal collector.

Do you ask for economy? I show you a way, simple

[1] Vol. LXIV. p. 559, October, 1839.

and certain, by which receipts will be assured, while business is simplified. All dues will be collected at the minimum of cost, so that there will be no loss from frauds or supernumerary hands. There will be both security and economy, besides simplicity; but simplicity is economy as well as convenience, in the Post-Office as in mechanics.

FOREIGN EXAMPLES.

If we go to foreign countries for example, we shall be obliged to stop in England. There is nothing in any nation of the European continent which is not a warning. Everywhere on that continent, from time immemorial, postage has been exorbitant. The great Revolution which popularized the institutions of France did not popularize the Post-Office. Kings and nobles disappeared, while equal rights prevailed; but France, fruitful in ideas, did not conceive the idea of the Post-Office as a beneficent agent of civilization and the handmaid of social life. Nor at that time was England in advance of France. Everywhere postage was high and the mails were slow. In England the service had a burden in the circumstance that every peer of the Upper House and member of Parliament had a defined power of franking, — being the power to send ten letters daily and to receive fifteen.[1] As the letters sent and received by each privileged person were limited in number, the Post-Office was obliged each day to verify every frank and to count the letters thus sent and received. Here was what may be justly called "the franking privilege," while the whole postal service was

[1] 35 Geo. III. c. 53, § 3. Lewins, Her Majesty's Mails, (2d edit., London, 1865,) p. 100.

costly and cumbersome. Like that of the United States, it was the growth of accident, and it was administered with a particular eye to profits, as if this were the first object of a post-office. Economy there should be always, but profits never. In Great Britain the surplus of receipts above the cost of administration was carried to the general treasury. In the United States the surplus received on certain lines has been employed down to this day in extending mail facilities to the sparse settlers in other parts of the country, besides defraying the expense of the franking system; and the letters of the people have been subjected to this tax.

IN ENGLAND THE POST-OFFICE REGARDED ORIGINALLY AS A SOURCE OF REVENUE.

From a proposition submitted to the King in 1635, and still preserved in the State-Paper Office, it appears that the postal service was of the slenderest character: letters, it is said, "being now carried by carriers or foot-posts sixteen or eighteen miles a day, it is full two months before any answer can be received from Scotland or Ireland to London."[1] But just so soon as it attracted attention the Post-Office was regarded as a source of revenue. In 1657 a voice in Parliament declared that it would "raise a revenue"; while a wise statesman replied, with little effect, "Nothing can more assist trade than this intercourse."[2] It was often farmed out for hire. The posts, both inland and foreign, under the Commonwealth, were farmed for £10,000

[1] Encyclopædia Britannica, (8th edit.,) Vol. XVIII. p. 404, art. Post-Office.

[2] Burton's Diary, (London, 1828,) Vol. II. p. 156.

a year.[1] In 1659 the Report on the Public Revenue contains the following item: "By postage of letters in farm, £14,000."[2] Under Charles the Second the same system was continued, and his first Postmaster-General contracted to pay to the King a yearly rent of £21,500.[3] A little later we meet the statute of 15 Charles II. c. 14, with the suggestive title, "An Act for settling the profits of the Post-Office on his Royal Highness the Duke of York and the Heirs male of his body." Under Queen Anne, what were called the "cross-posts" were farmed to Ralph Allen, who made great improvements in their management upon an agreement that the new profits so created should be his own during life. The bargain was so excellent for the contractor that during forty-two years he netted an average annual profit of nearly twelve thousand pounds,[4] which was enormous for those days. It is pleasant to think that the money thus obtained was well spent, as will be confessed when it is known that this contractor was the *Allworthy* of Fielding, and won from Pope that famous praise, —

> "Let humble Allen, with an awkward shame,
> Do good by stealth, and blush to find it fame."[5]

The Post-Office was not only farmed to contractors, but it was burdened with pensions, sometimes to a royal mistress or favorite. This system was begun by James the Second, who, in execution of the wishes of his brother, Charles the Second, granted to Barbara, Duchess of Cleveland, £4,700 annually, and to the Earl of Rochester £4,000 annually, payable by the Post-

[1] Encyclopædia Britannica, (8th edit.,) Vol. XVIII. p. 405.
[2] Ibid. [3] Ibid. [4] Ibid., p. 407.
[5] Epilogue to Satires, Dial. I. 136-7. Lewins, Her Majesty's Mails, (2d edit.,) p. 111.

Office.[1] Among the rewards lavished at a later day upon the Duke of Marlborough was an annual pension of £5,000, charged upon the Post-Office;[2] so that the victor of Ramillies and of Blenheim was a stipendiary upon the correspondence of the kingdom, every letter contributing to his annual income.

As the correspondence of the kingdom was charged with pensions, so also was it called to bear the burden of war. The statute of 9 Anne, c. 10, tells the story in its title: "An Act for establishing a General Post-Office for all her Majesty's dominions, and for settling *a weekly sum out of the revenues thereof for the service of the war* and other her Majesty's occasions." This statute was not short-lived, and its success as "war measure" encouraged the imposition of other burdens, so that the great English commentator, Sir William Blackstone, selected the Post-Office as a favorite pack-horse. "There cannot be devised," says he, "a more eligible method than this of raising money upon the subject; for therein both the Government and the people find a mutual benefit. The Government acquires a large revenue; and the people do their business with greater ease, expedition, and cheapness than they would be able to do, if no such tax (and of course no such office) existed."[3] Here is the rule authoritatively declared which so long prevailed with regard to the Post-Office.

ORIGIN OF FRANKING PRIVILEGE IN ENGLAND.

The English franking privilege was the natural parasite of such a system, where the true idea of a post-office

[1] Encyclopædia Britannica, (8th edit.,) Vol. XVIII. p. 407. Lewins, Her Majesty's Mails, (2d edit.,) p. 53.

[2] Encyc. Brit., *ubi supra.* [3] Commentaries, Vol. I. p. 323.

was entirely forgotten. Its origin belongs to this argument. It was in 1657, beneath the sway of the great Protector, while the Postage Act was before the House, that Sir Christopher Pack is reported as saying, "The design of the bill is very good for trading and commerce; . . . . as to that of letters passing free for members, it is not worth putting in an Act";[1] and this is the earliest allusion to "letters passing free for members." The idea showed itself again just after the Restoration, while the Act of 12 Charles II., c. 35, was under discussion. The proposition to frank all letters to or from members of Parliament during the session was carried on a division and after considerable debate, in the course of which Sir Heneage Finch, so eminent as lawyer and judge, characterized it as "a poor mendicant proviso, and below the honor of the House." Among its partisans was Sir George Downing, a graduate in the first class of Harvard College. The Speaker, Sir Harbottle Grimston, was unwilling to put the question, saying, "I am ashamed of it."[2] The Lords struck it out of the bill, ostensibly for the reasons which had actuated the Opposition in the Commons, but really because there was no provision that their own letters should pass free. Although the proposition failed at that time to obtain legislative sanction, yet the object was accomplished indirectly. In the indenture with the contractor to whom the Post-Office was farmed occurred a proviso for the free carriage of all letters to or from the King, the great officers of State, "and also the single inland letters only of the members of the present Parliament

[1] Burton's Diary, Vol. II. p. 156.

[2] Hansard's Parliamentary History, Vol. IV. col. 163, December 17, 1660.

during the continuance of this session of this Parliament."[1] And thus began the "franking privilege" in England. Defeated in Parliament, it was smuggled into a Post-Office contract. With such an origin, it became a mere perquisite of office; and afterward, when sanctioned by statute, it was employed at the mere will of its possessor, who sometimes distributed his franks among his friends and sometimes sold them for a price.[2]

POST-OFFICE IN THE COLONIES.

THE postal service in the Colonies was on a small scale. Authentic incidents show its beginnings. The Government of New York in 1672 established a post to go monthly from New York to Boston, advertising "those that bee dispos'd to send letters, lett them bring them to the Secretary's office, where, in a lockt box, they shall bee preserv'd till the messenger calls for them. All persons paying the post before the bagg be seal'd up."[3] Thirty years later this monthly post was fortnightly.[4] In Virginia the postal service was more simple. The Colonial law of 1657 required every planter to provide a messenger for the conveyance of dispatches, as they arrived, to the next plantation, and so forward, on pain of forfeiting a hogshead of tobacco for each default.[5] Until after 1704 there was no regular

1 Encyclopædia Britannica, (8th edit.,) Vol. XVIII. p. 405. Lewins, Her Majesty's Mails, (2d edit.,) p. 97.

2 Lewins, p. 100.

3 Barber and Howe's Historical Collections of New York, p. 290.

4 Encyc. Brit., (8th edit.,) Vol. XVIII. p. 406.

5 Statutes at Large, ed. Hening, Vol. I. p. 436. Encyc. Brit., (8th edit.,) Vol. XVIII. p. 406.

post further East than Boston, or further West than Philadelphia. In that year Lord Cornbury, writing to Government at home, says: —

"If I have any letters to send to Virginia, or to Maryland, I must either send an express, who is often retarded for want of boats to cross those great rivers they must go over, or else for want of horses, or else I must send them by some passengers who are going thither. The least I have known any express take to go from hence to Virginia has been three weeks."[1]

Shortly afterward stage-coaches were established between Boston and New York, and between Boston and Philadelphia; but no post-office was established in Virginia until 1732; nor did any postal revenue accrue to Great Britain from the Colonies until 1753, when Benjamin Franklin became Postmaster-General for the Colonies.[2]

The same genius which ruled in philosophy and in politics was not wanting in this sphere of duty. The office was remodelled, and the sphere of its operations extended. But the efforts of Franklin in this department became tributary to the revenues of the mother country. On his removal, in 1774, he was able to say, "Before I was displaced by a freak of the ministers we had brought it to yield *three times as much clear revenue to the Crown* as the Post-Office of Ireland. Since that imprudent transaction they have received from it — not one farthing."[3] Revenue! always revenue! Even

[1] Lord Cornbury to the Lords of Trade, June 30, 1704: Documents relative to the Colonial History of New York, ed. O'Callaghan, Vol. IV. p. 1113.

[2] Encyclopædia Britannica, Vol. XVIII. (8th edit.,) pp. 406, 408.

[3] Autobiography: Works, ed. Sparks, Vol. I. p. 174.

Franklin shows no sign of ascending to the true idea of a post-office. The Revolution was now at hand, when the Crown ceased to receive revenue from any source in the United States. But in separating from the mother country the Post-Office was left unchanged in character. It was an undeveloped agency, with receipts always above expenses.

REFORM AND PENNY POSTAGE IN ENGLAND.

Meanwhile in the mother country the Post-Office continued to be a source of revenue; but its natural capacities were impaired by a defective system, without an animating soul. It was merely a machine for carrying a few letters and putting money into the public treasury. Though still on a small scale, its processes were multifarious. The rates were constantly altered, and generally increased in amount, as also in number, in each of the three kingdoms, and without uniformity in either two. From two or three, in 1710, they rose in number until they reached the climax of absurdity and inconvenience in twelve different rates for England and Scotland in 1812, and thirteen for Ireland in 1814.[1] The impracticable system, with rates at once numerous and high, led to perpetual evasions, while the franking privilege was a charge without an equivalent. At last the day of revolution came. After careful inquiry the old system was swept away, and with it no less than one hundred and fifty Acts of Parliament by which it was incumbered.[2] The old was succeeded by the new,

[1] Miles, History of the Post-Office: Bankers' Magazine, (New York, 1857–58,) Vol. XII. pp. 342–3.

[2] Ibid., p. 343.

and the change was complete. No institution in history ever underwent at once a transformation so beneficent as that of the British Post-Office.

Next after Benjamin Franklin, Rowland Hill will be enrolled as the most remarkable character in the history of the Post-Office. The son of a schoolmaster, of simple life, and without any connection with the postal service, he conceived the idea of radical reform. It is not too much to say that he became the inventor or author of cheap postage. More than all Franklin did for the Colonies Hill did for Great Britain. Call him inventor or author, there are few on either list more worthy of honor; and since what is done for one country becomes the common property of the world, he belongs to the world's benefactors.

Rowland Hill well observed, that, while population, business, and all other sources of national revenue had greatly increased during the preceding twenty years, the revenue of the Post-Office had actually decreased; that, for instance, the revenue from stage-coaches had risen from £217,671 in 1815 to £498,497 in 1835, or one hundred and twenty-nine per cent., while the postal revenue, which at a corresponding rate of increase should have exhibited a gain of £2,000,000, in point of fact showed an absolute loss of near £20,000, having declined from £1,557,291 in 1815 to £1,540,300 in 1835.[1] Evidently there was something abnormal, when the conveyance of persons and parcels yielded a revenue so much beyond that of letters. After showing the loss to the revenue, the generous reformer demonstrated clearly that the actual cost of carrying a letter by coach in the mail from London to Edinburgh, being four hun-

[1] Post-Office Reform, (4th edit.,) pp. 2–4.

dred miles, was only one thirty-sixth part of a penny,[1] — from which it was properly inferred that the actual difference of expense between transporting a letter one mile and delivering it and transporting it four hundred miles and delivering it did not justify a different rate of postage. His conclusion was, that the large cost of distributing letters grew out of a complex and multifarious system, springing especially from many rates, — that all this would be superseded, if postage were charged, *without regard to distance, at a uniform rate*, and that this uniform rate should be one penny; and he did not hesitate to declare that with this change there would be an increase in correspondence "at least five and a quarter fold."[2] In his original proposition, Rowland Hill relied especially upon a uniform rate at a penny, regardless of distance, — and from this promised simplicity, economy, and an immense increase of correspondence. But, offensive as the franking privilege had become, and burdensome to the postal service, he did not at first propose its excision.

His plan encountered that honest opposition which improvement of all kinds is obliged to overcome. The record is most instructive. The Postmaster-General, Lord Lichfield, said in the House of Lords: "Of all the wild and visionary schemes which I have ever heard of, it is the most extravagant." On another occasion the same high official assured the House, that, if the anticipated increase of letters should be realized, "the mails will have to carry twelve times as much in weight; and therefore the charge for transmission, instead of £100,000, as now, must be twelve times that amount. The walls of the Post-Office would burst; the

[1] Post-Office Reform, (4th edit.,) pp. 12-14. [2] Ibid., p. 44.

whole area in which the building stands would not be large enough to receive the clerks and the letters."[1] In the same spirit with his chief, Colonel Maberly, the experienced Secretary of the Post-Office, in his testimony before the Committee, did not hesitate to say: "It appears to me a most preposterous plan, utterly unsupported by facts, and resting entirely on assumption." And he proceeded to predict a loss of revenue from its adoption, saying, that, if postage were reduced to one penny, the revenue "would not recover itself for forty or fifty years."[2] The London "Quarterly Review," with its habitual obstructiveness, set itself against the new plan and its promised result, saying: "Common sense is astounded at such a result and refuses to believe it, though it cannot at first sight discover where the fallacies lie; but a little examination will show, that, as usual, common sense is right, even against the assumed accuracy of arithmetic."[3] I give these as illustrative examples of the opposition encountered.

Against all these stood Rowland Hill, insisting that the Post-Office, although now "rendered feeble and inefficient by erroneous financial arrangements," in contemplation of the proposed reform "assumes the new and important character of a powerful engine of civilization, capable of performing a distinguished part in the great work of national education."[4]

The proposed reform was vindicated as practical and

[1] Debates, June 15 and December 18, 1837: Mirror of Parliament, cited in Encyclopædia Britannica, (8th edit.,) Vol. XVIII. p. 411.

[2] Second Report from Select Committee on Postage, p. 349, — Minutes of Evidence, Nos. 10908, 10911: Parliamentary Papers, 1837-8, Vol. XX. Part 2.

[3] Vol. LXIV. p. 541, October, 1839.

[4] Post-Office Reform, (4th edit.,) p. 6.

valuable, first by witnesses before the Parliamentary Committee, and then in Parliamentary debate. The Committee examined no less than eighty-nine witnesses. These were from every rank and nearly every trade and profession, — peers of the realm, members of the House of Commons, authors, publishers, merchants, bankers, mechanics, common carriers, clergymen, solicitors, Post-Office officials, and others. Among the witnesses were Richard Cobden, Charles Knight, Rowland Hill, Dionysius Lardner, and Lord Ashburton.[1] The testimony embraced eleven thousand six hundred and fifty-four questions and answers, and filled three large folio volumes bound in two, making altogether nearly sixteen hundred pages. The Index alone makes one hundred and fifty-three pages.

Among the many things testified before the Committee I select the words of Lord Ashburton, as especially valuable. Experienced in business and in public life, he pictures truthfully the burden of excessive postage, when he says: —

"I think it is one of the worst of our taxes. We have, unfortunately, many taxes which have an injurious tendency; but I think few, if any, have so injurious a tendency as the tax upon the communication by letters."

And then again: —

"It is, in fact, taxing the conversation of people who live at a distance from each other. The communication of letters by persons living at a distance is the same as a communication by word of mouth between persons living in the same town. You might as well tax words spoken upon the Royal Exchange as the communications of various persons living

[1] See the full list in Appendix (A) to Second Report.

in Manchester, Liverpool, and London. You cannot do it without checking the disposition to communicate very essentially."

At the same time Lord Ashburton hesitated to adopt a rate as low as one penny. He was for twopence or threepence.[1]

The doubts of Lord Ashburton as to the rate were encountered by Mr. Cobden, who testified: —

"I consider the only way to produce the greatest possible amount of revenue is to charge the lowest possible trading profit; and it is in the Post-Office as in steamboats, or Paddington coaches, or calicoes, or sugars, or teas, or anything else which can be or ought to be an article of universal demand and consumption. With that view I have regarded Mr. Rowland Hill's plan of Post-Office Reform; and taking the cost of a letter, upon the presumed increase he has stated, even at three-fourths of a penny each letter, I should say one penny would then be a proper charge ultimately to produce the greatest possible amount of revenue. I would reason from analogy and experience in every other business, and in none more than my own."[2]

On such a point nobody could speak with more authority than Mr. Cobden.

But nobody showed more comprehension of the moral ground for this reform than Mr. Jones Loyd, the eminent banker and economist, afterwards Lord Overstone. Nothing can be better than this: —

"I think, if there be any one subject which ought not to have been selected as a subject of taxation, it is that of intercommunication by post; and I would even go a step further,

[1] Second Report, pp. 147, 148, 149, — Minutes of Evidence, Nos. 8126, 8130, 8134.

[2] Ibid., p. 52, — Minutes of Evidence, No. 6728.

and say, that, if there be any one thing which the Government ought, consistently with its great duties to the public, to do gratuitously, it is the carriage of letters. We build national galleries, and furnish them with pictures; we propose to create public walks, for the air and health and exercise of the community, at the general cost of the country. I do not think that either of those, useful and valuable as they are to the community, and fit as they are for Government to sanction, is more conducive to the moral and social advancement of the community than the facility of intercourse by post. *I therefore greatly regret that the post was ever taken as a field for taxation*, and should be very glad to find, that, consistently with the general interests of the revenue, which the Government has to watch over, they can effect any reduction in the total amount so received, or any reduction in the charges, without diminishing the total amount." [1]

In all the voluminous testimony this beautiful passage is like a beacon-light.

At last this important subject was transferred from the Committee to Parliamentary debate; and here I content myself with a few brief words from leading speakers. Mr. Goulburn, one of the chiefs of Opposition, admitted that the plan proposed would "ultimately increase the wealth and prosperity of the country." [2] Mr. Wallace declared it "one of the greatest boons that could be conferred on the human race." [3] Sir Robert Peel admitted that "great social and commercial advantages will arise from the change, independent of financial considerations." [4] Viscount Sandon, of the Opposi-

[1] Second Report, p. 305, — Minutes of Evidence, No. 10378.

[2] Debate on the Budget, July 5, 1839: Hansard, 3d Ser., Vol. XLVIII. col. 1373.

[3] Ibid., col. 1384.

[4] Speech on the Postage Duties Bill, July 22, 1839: Hansard, 3d Ser., Vol. XLIX. coll. 638-9.

tion, struck a higher chord, when he declared that he "had long been of opinion that the Post-Office was not a proper source of revenue," but "ought to be employed to stimulate other sources of revenue."[1] In the same strain, and with higher authority, Mr. O'Connell declared it "one of the most valuable legislative reliefs that had ever been given to the people"; that it was "impossible to exaggerate its importance"; and even if it would not pay the expense of the Post-Office, he held that "Government ought to make a sacrifice for the purpose of facilitating communication."[2] I group these testimonies as important in the history of this reform, and furnishing a guide for us.

VICTORY.

At last victory was assured. The Parliamentary Committee reported in favor of change. But Parliament hesitated to fix the change in permanent form. By Act of 17th August, 1839, the Lords of the Treasury were empowered by warrant under their hands to declare the rates of postage according to weight, "without reference to the distance or number of miles the same shall be conveyed," — and also to suspend, wholly or in part, "any parliamentary or official privilege of sending and receiving letters by the post free of postage, or any other franking privilege of any description whatsoever." The Lords of the Treasury were contented with ordering a uniform rate of fourpence, and without the abolition of the franking privilege. This was not enough. The

[1] Speech on Uniform Penny Postage, July 12, 1839: Hansard, 3d Ser., Vol. XLIX. col. 304.

[2] Debate on the Budget, July 5, 1839: Hansard, 3d Ser., Vol. XLVIII. coll. 1408, 1409.

people called for more, and the Lords of the Treasury by another warrant declared the rate at one penny and suspended the franking privilege.[1] This was followed by the Act of Parliament passed 10th August, 1840, in which the great change was consummated. The rate was established at one penny, with stamps; and the franking privilege was abolished, except in the case of petitions to the Crown or to Parliament not exceeding thirty-two ounces in weight. The clause of abolition was as follows: —

"That, except in the cases herein specified, all privileges whatsoever of sending letters by the post free of postage, or at a reduced rate of postage, shall wholly cease and determine." [2]

The abolition of the franking privilege was more than Rowland Hill had proposed. In his testimony before the Parliamentary Committee he undertook to account for the anticipated increase of letters "in some measure from the *partial voluntary disuse* of the franking privilege," [3] — thus mildly forecasting, not its abolition, but its voluntary renunciation. And the Committee, in their recommendations, treated its abolition as incident to cheap postage. This is their language: —

"It would be politic, ... *if, on effecting the proposed reduction of the postage rates*, the privilege of Parliamentary franking were to be abolished, and the privilege of official franking placed under strict limitation, — petitions to

[1] Treasury Warrants, November 22 and December 27, 1839: Parliamentary Papers, 1840, Vol. XLIV. No. 17.

[2] Section LVI.

[3] First Report from Select Committee on Postage, p. 16, — Minutes of Evidence, No. 135: Parliamentary Papers, 1837-8, Vol. XX. Part 1.

Parliament and Parliamentary documents being still allowed to go free."[1]

Thus was the abolition of the franking privilege announced as subordinate to the reduction of the postage rates, which was the main object.

Thus, after inquiry and debate lasting for three years, this great reform was accomplished, and the English Post-Office assumed an unprecedented character. The new system was founded on a uniform rate for uniform weight without regard to distance, and this rate the lowest unit of coin, — with prepaid stamps, and the abolition of the franking privilege. The experiment was a prodigious success, although the first results showed a falling off financially. The Post-Office authorities had predicted that it would not pay expenses; but the diminished receipts were more than enough for the expenses, while the number of letters was more than doubled.[2] There was a smaller net revenue for the National Treasury, but an infinite benefit to the people. The surplus of the first year was £500,789, against £1,633,764 of the previous year.[3] But the improvement financially was constant, so that here Rowland Hill became a prophet. He had predicted that the increase of correspondence and the economy of management would in a reasonable time afford a probable net revenue of £1,278,000.[4] In 1856 the net revenue had reached £1,207,725, — while at the same time the

[1] Third Report from Select Committee on Postage, p. 62: Parliamentary Papers, 1837-8, Vol. XX. Part 1.

[2] In 1839, 75,907,572; in 1840, 168,768,344: First Report of Postmaster-General, Appendix (D), p. 65: Parliamentary Papers, 1854-5, Vol. XX.

[3] Ibid., Appendix (F), p. 68.

[4] Post-Office Reform, (4th edit.,) pp. 26, 44.

letters were 478,393,803 in number, with 6,178,982 money orders, against 75,907,572 letters, with 188,921 money orders, in the last year of the old system.[1]

The smallest part of the result was in the revenue, — except so far as this was advanced by the increased activity of the country, represented by the added millions of correspondence. Commerce and business were quickened infinitely, while the ties of social life were brightened and the heart was rejoiced. Here the testimony is complete. Tradesmen wrote to Rowland Hill, their benefactor, saying how their business had increased. Charles Knight, the eminent publisher, who did so much for the literature of the people, wrote that every branch of bookselling was stimulated, while the country seller was brought into almost daily communication with the London houses. The publisher of the Polyglot Bible in twenty-four languages, requiring a peculiar revision, declared that it could not have been printed but for penny postage. The Secretary of the Parker Society, composed of Church dignitaries and influential laymen, which has done so much for ecclesiastical literature by reprinting the works of the early English Reformers, stated that without penny postage the Society could not have come into existence. Secretaries of other societies, literary and benevolent, wrote how their machinery had been improved; conductors of educational establishments testified that people were everywhere learning to write for the first time, in order to enjoy the benefits of untaxed correspondence, and that night classes of adults for this purpose were springing up in all large towns. A leading advocate for the re-

[1] Third Report of Postmaster-General, Appendix (B), (D), (G), pp. 36, 38, 47: Parliamentary Papers, 1857, Vol. IV.

peal of the Corn Laws gave it as his opinion that this reform must have waited but for penny postage, — that through this ally it reached its triumph two years earlier than it otherwise could have done. All this is easy to believe; for penny postage lends itself to all knowledge and to every reform. Others wrote with rapture of its operations. The accomplished naturalist, Professor Henslow, of Cambridge, rejoiced over its "importance to those who cultivate science," and pictured the satisfaction of the humble people about his country parsonage "at the facility they enjoy of now corresponding with distant relatives," together with what he calls "the vast domestic comfort which the penny postage has added to homes like my own, situate in retired villages." Miss Martineau described its social benefits. Rowland Hill himself, showing how much it had done for the poor, said, "The postman has now to make long rounds through humble districts where heretofore his knock was rarely heard."[1] And from the outlying Shetland Islands a visitor in May, 1842, reported: "The Zetlanders are delighted with penny postage. The postmaster told me that the number of letters was astonishing."[2] But perhaps the heartfelt exultation was never better expressed than by the accomplished traveller, Mr. Laing, when, after describing the Prussian system of education, and giving the palm to penny postage as "a much wiser and more effective educational measure," destined to be "the great historical distinction of the reign of Victoria I.," he proceeds to say, that "every mother in the kingdom, who has children earning their

[1] Results of the New Postage Arrangements : Journal of the Statistical Society of London, Vol. IV. p. 96, July, 1841.

[2] Fraser's Magazine, September, 1862, — Vol. LXVI. p. 335.

bread at a distance, lays her head upon her pillow at night with a feeling of gratitude for this blessing."[1] Such was the unbought tribute from all quarters, — alike the cottage of the lowly and the home of the professor, the counting-house of the merchant and the activities of benevolence, business in its various forms, and the commanding efforts of the political reformer, all, all confessing their debt to penny postage.[2]

The benefactor was honored in no common way, but not without tasting the lot of others who have served Humanity. At first assigned to a position in the Treasury connected with the Post-Office, then dismissed, and then, with a change of Administration, not only restored to the service, but appointed to a high position in the Post-Office itself, he had the inexpressible satisfaction of witnessing the triumph of his efforts and receiving the grateful regard of a happy people. He was not rich, and the considerable sum of £13,000 was presented to him by a public subscription throughout the country, with an address declaring the reform he had accomplished "the greatest boon conferred in modern times on all the social interests of the civilized world." The knighthood bestowed by his sovereign was another attestation of his prevailing merit, destined to be followed by a further gift from Parliament itself of £20,000.[3] This episode of honor and gratitude to the benefactor has a peculiar interest for us, as furnishing new testimony to the cause with which the name of Rowland Hill is forever associated.

[1] Notes of a Traveller, (London, 1842,) pp. 169, 170.

[2] For this testimony, besides the works cited above, see Lewins, Her Majesty's Mails, (2d edit.,) pp. 198 - 201 ; and Report of Select Committee on Postage, August, 1843, pp. 12 - 15 : Parliamentary Papers, 1843, Vol. VIII.

[3] Lewins, Her Majesty's Mails, (2d edit.,) pp. 191 - 4.

THE SAME VICTORY MAY BE OURS.

Such was the great reform by which the Post-Office became an evangel of civilization; but all this may be ours. The impediments overcome were greater than any we are called to encounter, while the object proposed is in undoubted accord with republican institutions, where simplicity, harmony, and adaptation to popular needs are acknowledged principles. This renovation prevailed in England: how can it fail in the United States? The Republic is the most advanced type of government, as the human form is the most advanced type of the animal world; but the Republic is nothing else than an organization to promote the welfare of men. Whatever makes for human welfare is essentially republican. Nor can any loss of revenue be set against this transcendent opportunity. Show me how to promote the welfare of men, and I show you an economy beyond any revenue; more still, I show you a duty not to be postponed.

The ruling principle in England, from the beginning down to the triumph of penny postage, was revenue; and this is still the ruling principle with us, to which all else is subordinated. England was accustomed to say, and the United States now say, with Shylock, "We would have moneys." The abolition of the franking system is proposed on this ground, — not to lighten the existing burden of correspondence, not to cheapen postage, not to simplify the postal service, not to provide the American equivalent of the English penny postage, but simply to increase the revenue. We are summoned to give up a long-tried system, educational

in its influence, merely for the sake of the Treasury. This is the object perpetually in view. Even the Postmaster-General, who is so liberal in all his ideas, says, in words which hardly do justice to the times, "As far as lay in my power, during my short administration, I have reduced the expenditures and increased the revenues of the Department."[1] Something better than this remains to be done.

COMPLEXITY AND MULTIFARIOUSNESS IN OUR SYSTEM.

THE postal system of the United States was kindred in character to that of England until the latter was transfigured by the felicitous genius of Rowland Hill. Both had the same incongruities and incumbrances. The rates in both were complex instead of uniform, and dear instead of cheap. The Act of Congress, February 20, 1792, establishing the Post-Office, provided for no less than nine different rates of postage, viz., — six, eight, ten, twelve and a half, fifteen, seventeen, twenty, twenty-two, and twenty-five cents, — according to distance. In 1799 the number of rates was reduced to six, viz., — eight, ten, twelve and a half, seventeen, twenty, and twenty-five cents. In 1816 the number was further reduced to five, viz., — six, ten, twelve and a half, eighteen and a half, (in 1825 changed to eighteen and three fourths,) and twenty-five cents, — and so continued until 1845, when, yielding partially to the English example, the rates were established at five and ten cents, with two cents for drop letters; then, in 1851, at three and six cents for prepaid and five and ten cents

[1] Report, November 16, 1869, p. 23: Executive Documents, 41st Cong. 2d Sess., H. of R., No. 1, Part 1.

for unpaid letters, with one cent for drop letters; then, in 1855, at three and ten cents prepaid, and one cent for drop letters; then, in 1863, at three cents, or, failing prepayment, six cents, with two cents for drop letters; and finally, in 1865, at three cents prepaid in all cases, with two cents for drop letters delivered by carriers, or one cent where there is no delivery.[1]

The difference between a drop letter and what is called a mailed letter, or letter from post-office to post-office, causes frequent confusion, as is seen here in Washington, where letters for Georgetown often have the two-cent stamp, when they should have that of three cents. The same confusion exists in other places. But this ridiculous division and subdivision are peculiar to the United States. It is not known that they are to be found in any other postal service.

The rates on foreign letters were, if possible, more chaotic. It was different with different countries, according to existing treaties; and this difference prevailed not only in the rate, but also in the unit of weight. As late as 1849 the rate on letters to England and Ireland was twenty-four cents, and was then changed to sixteen cents, and in 1868 to twelve cents; it is now six cents, being two cents for the sea postage and two cents for the inland postage of each country, allowing half an ounce of weight.[2] The treaty rate with France is fifteen cents on one quarter of an ounce.[3] Letters to Canada and other British North American provinces, when not over three thousand miles, are six

[1] Statutes at Large, Vol. I. pp. 235, 734; III. 264; IV. 105; V. 733; IX. 588; X. 641-2; XII. 705-6; XIII. 505, 507.

[2] Ibid., Vol. V. p. 749; XVI. 783, 833, 869.

[3] Ibid., Vol. XVI. p. 872. Report of Postmaster-General, Nov. 15, 1869, p. 14.

cents for each half-ounce, if prepaid, and ten cents, if not prepaid; when over three thousand miles, ten cents; to Newfoundland, ten cents.[1] Then, in the absence of postal international convention, there is a general provision by Act of Congress establishing the rate of ten cents for each half-ounce carried to or received from foreign countries "by steamships or other vessels regularly employed in the transportation of the mails."[2]

Such are the complexity and multifariousness of our postal service, — at least three different rates on inland letters, with an unknown variety on foreign letters. Here is discord where there should be uniformity, and out of this discord springs necessarily embarrassment with untold expense. True, much has been done; but much remains to be done before the service will have that simplicity without which it is vain to expect the desired combination of utility and economy. Every departure from uniformity is an impediment and an expense. It is with the postal service as with all else in Nature and Art: it is efficient and economical in proportion as it is simple. The rates of postage should be uniform. Borrowing a phrase from our political victories, *all letters should be equal before the law.*

Take by way of illustration the increased perplexity from two rates: and here I follow an old official of the Post-Office, Pliny Miles, who puts this very case. "Suppose," says he, "city or local letters were two cents, and letters for a distance three or four cents. What a vast amount of labor and inconvenience in the work of rating and sorting in the Post-Office, and how perplexing

[1] Statutes at Large, Vol. XIII. p. 337; XVI. 1096. Report of the Postmaster-General, December 3, 1868, p. 18.

[2] Act, July 1, 1864, Sec. 8: Statutes at Large, Vol. XIII. p. 337.

to the citizen!"[1] By the existing system there is a double perplexity, — first, for the citizen, and, secondly, for the postal service. Each rate is like an additional language to be learned, while the unknown rates on foreign letters are like the confusion of Babel.

UNIFORM RATE AT ONE CENT.

In the process of simplification the uniform rate should be the lowest unit of coin. Beyond the sufficiency of this rate as a protection of the Post-Office against abuse, and also its obvious convenience, is its cheapness, reducing the tax on correspondence to its practical minimum. In England the penny was the lowest unit of coin, being in the English currency what the cent is in ours. The success of the English experiment is our best encouragement. There is better reason for the cent as a proper rate in our country than there was for the penny as a proper rate in England.

Such a rate will be so near to *free postage* for all, that it may be considered such practically. Let it be adopted, and free postage will become the companion of free school, free lecture, and free library, constituting the mighty group of republican civilization. The existing franking system will naturally disappear in this new franking system for all.

Here we encounter the financial question, What will be the effect on the Treasury? Will it pay? These are the potential words. This is the touchstone. That it will pay in beneficent influence tenfold, ay, Sir, a hundred-fold, — that it will make the Post-Office more than ever the powerful agent of human improvement,

[1] History of the Post-Office: Bankers' Magazine, (New York,) December, 1857, Vol. XII. p. 443.

I cannot doubt. What is a little revenue, compared with such a result? What, even, is a deficit, with such a compensation? But looking at the financial question, and forgetting for a moment the incalculable good, it will be found that there are general laws of profit on small prices applicable to this proposed reduction, reinforced also by the example of England, and even of our own country.

REDUCTION OF PRICE INCREASES CONSUMPTION.

NOTHING is plainer, as a general rule, than that the reduction of price tends to increase of consumption. This is illustrated by a thousand instances. Thus, at one time in England the fall in the price of soap one eighth increased the consumption one third; the fall of tea one sixth increased consumption one half; the fall of silks one fifth doubled the consumption; the fall of coffee one fourth trebled it; and the fall of cotton goods one half quadrupled it.[1] The circulation of newspapers and the number of advertisements are governed by the same law. There is another English instance, not within the range of ordinary business, which is not without historic interest. Formerly the admission fee to the famous sights of the Tower of London was two shillings, at which rate there were, during the year ending April 30, 1838, 11,104 visitors, paying £1110 8*s*. The fee was then reduced to one shilling, and during the twelve months following (1838 – 9) there were 42,212 visitors, paying £2110 12*s*. On the first of May, 1839, the fee was again reduced to sixpence, and during the ensuing year (1839 – 40) there were 84,872 visitors, paying

[1] Hill, Post-Office Reform, (4th edit.,) p. 70.

£2121 16*s.*, — and the next year (1840 – 41) 94,973 visitors, paying £2374 6*s.* 6*d.*[1] Thus at the Tower more people were gratified by the sights and more money was taken, — so that there was at the same time a larger accommodation and a larger revenue. A reduction of the fee in the ratio of four to one was followed by an increase of visitors in the ratio of more than eight to one. According to a familiar story in our own country, the exhibitor of a panorama reported to the proprietor that the proceeds at twenty-five cents a ticket did not pay expenses. "Put it down to ten cents," was the reply. This was done, and immediately the receipts rose so as to give a profit of one hundred dollars a week.

Such instances as these occurring in business and in life led Rowland Hill to assert that "the increase in consumption is inversely as the squares of the prices"; and this rule justified the expectation, that, with the proposed reduction of letter postage from the average of sixpence to a penny, the number of letters would increase thirty-six fold.[2] If the number did not increase in this remarkable ratio, yet it was such as to disappoint the enemies of reform. It appears that the estimated number of chargeable letters delivered in the United Kingdom of England, Scotland, and Ireland in 1839, the year immediately preceding the first general reduction of postage, was 75,907,572, and in 1840, the first year of penny postage, 168,768,344, showing an increase in one year of more than 122 per cent. Since

[1] Tower Armories: Parliamentary Papers, 1837 – 8, No. 478, Vol. XXXVI.; 1839, No. 209, Vol. XXX.; 1840, No. 185, Vol. XXIX.; 1841, No. 243, Vol. XIII.; 1845, No. 576, Vol. XLV.

[2] Post-Office Reform, (4th edit.,) p. 70.

then this large number has dilated year by year, until in 1867 it amounted to 774,831,000.[1]

Postal facilities have from the beginning promoted correspondence, and this was recognized even before the appearance of Rowland Hill. An old account of the English Post-Office, after describing certain improvements, exults "that there is no considerable market-town but hath an easy and certain conveyance for the letters thereof to and from the Grand Office in the City of London, in the due course of the mails every post"; and then adds, that, "though the number of letters missive in England were not at all considerable in our ancestors' days, yet it is now prodigiously great, since the meanest people have generally learnt to write."[2] This is the language of another age; but it attests the stimulation which letters receive from opportunity, and illustrates the value of cheap postage.

CHEAP POSTAGE MULTIPLIES LETTERS.

THE experience of England is reproduced in the United States, so far as we have ventured upon postage reform. Every reduction of rate has been followed by a corresponding increase in the number of letters. There was the law of 1845, by which postage was reduced to two principal rates of five and ten cents. At this proposition, which erred only in its feebleness, there was the gloomiest foreboding of utter loss to the Post-Office. The raven did not croak more hoarsely at the entrance of Duncan under the battlements of Macbeth. Mr. McDuffie, the excitable Senator from South Carolina,

[1] First Report of Postmaster-General, App. (D), p. 65; Fourteenth ditto, p. 5: Parliamentary Papers, 1854-5, Vol. XX.; 1867-8, Vol. XXII.

[2] Gentleman's Magazine, April, 1815, Vol. LXXXV. Part I. p. 310: Of the Office of Postmaster-General, 1677.

always sensitive for Slavery, after expressing regret that bodily infirmity disabled him from declaring the strength of his convictions in regard to the evils which would flow from this measure, protested against its adoption as "more radical and revolutionary than anything ever done in Congress." The Senator denounced it as most unjust, and predicted that in ten years the Post-Office would cost the Treasury $10,000,000.[1] The newspaper press, though not so fervid, was as skeptical as the South Carolina Senator; and the Postmaster-General showed the very disposition which had given to his brother officials in England the designation of "unwilling horses." In his first Report after the passage of the law, he announced a prospective deficiency for the current year exceeding $1,250,000, and, unless there should be some amendment of the law, another deficiency the next year of little short of $1,000,000.[2] Now mark the result of even this too slight reduction. The actual deficiency for 1845–6 was only $597,097,[3] and for 1846–7 it was but $33,677,[4] while in 1848–9 there was a surplus revenue of $226,127.[5] The letters in 1845 were estimated at 39,958,978; and in 1849 at 60,159,862,[6] showing an increase in four years of more than fifty per cent.

[1] Speech in the Senate, February 8, 1845.

[2] Report of Postmaster-General, December 1, 1845: Executive Documents, 29th Cong. 1st Sess., H. of R., No. 2, p. 855.

[3] Report, December 7, 1846: Ex. Doc., 29th Cong. 2d Sess., H. of R., No. 4, p. 682.

[4] Report, December 6, 1847: Ex. Doc., 30th Cong. 1st Sess., H. of R., No. 8, p. 1314.

[5] Report, December 3, 1849: Ex. Doc., 31st Cong. 1st Sess., H. of R., No. 5, p. 776.

[6] Miles, Postal Reform, (New York, 1855,) § 34, pp. 25–27; also, History of the Post-Office,—Bankers' Magazine, (New York,) November, 1857, Vol. XII. p. 364.

Every reduction of postage in our country exhibits similar results. According to the ratio of reduction has been the ratio of increase in the number of letters. It may surprise Senators to know, that, while the estimated number in 1852 was 95,790,524,[1] it reached in 1868 to 488,000,000, in the estimate of the Post-Office.[2] But this is only according to the prevailing impulsion from a reduction in price. In England, where the rate was smaller, the number of letters was much larger, being in 1867, as estimated, no less than 774,831,000.[3] This becomes more remarkable, when it is considered that the estimated population of the United States at the time was more than forty millions, while that of the United Kingdom was thirty millions, — making twelve letters annually for each person in the United States, and twenty-six letters annually for each person in the United Kingdom.

ILLEGITIMATE BURDENS ON CORRESPONDENCE.

To understand the justice of the proposed reduction in our country, we must analyze and consider existing obligations of the postal service. I mention two, through which we may see the unjust operation of the present tax on correspondence: first, the well-known franking system, and, secondly, the millions of newspapers, by which an inconceivable amount of mail matter is made a burden on the Post-Office, tasking its transportation and its means of delivery. Although printed matter, unfranked, is charged with postage, it is not in proportion to its burden on the postal service;

[1] Miles, *ubi supra*.

[2] Letters from Postmaster-General, February 26 and May 21, 1870: Executive Documents, 41st Cong. 2d Sess., Senate, No. 53, p. 8, and No. 86, p. 2.

[3] See, *ante*, p. 88.

so that the letter not only pays for itself, but contributes to the other. The letter, so small in dimension and weight, but with its own unseen freight of business or friendship, is made to carry an additional load. Every letter is a dwarf shouldering a giant; or stating the case with absolute literalness, it is a sheet of paper compelled to bear free matter and printed matter measured by the ton. This little messenger, whose single function necessarily requires dispatch, is charged with this intolerable mass. No wonder that it staggers under the load heaped upon it. No wonder that the people are obliged to pay high postage; for, on receiving a letter, they not only pay the price of its transportation and delivery, but they contribute to the transportation and delivery of everything else carried by the mails.

But even this burden could be borne, if the whole service were not charged with the cost of transportation and postal facilities in distant parts of the country, where there is necessarily a disproportionate expense, — so that a letter in certain States, after paying for its own transportation and delivery, and contributing to the transportation and delivery of free matter and printed matter, contributes still further to those long lines of service by which the most remote places are supplied and the post-office follows close in the footsteps of the pioneer. This is beautiful, but it is not just; in other words, it is beautiful that these opportunities should be afforded, but it is not just that the correspondence of others should pay for them. Nor should these extraordinary expenses be charged on these remote places, or on the pioneer. They belong properly to the necessary outlay in opening the country, by which the nation, the great untaxed proprietor, finds a

market for its land and new scope for its growing empire. Obviously this outlay should be charged to the Treasury, rather than saddled upon the postal service, as it is now.

EXPENSE OF OUTLYING ROUTES.

THE last Report of the Postmaster-General shows the operation of the existing system in this respect. By the Statement of Receipts and Expenditures for 1868 – 9, it appears that in no less than sixteen States and Territories, including the District of Columbia, the Post-Office was more than self-supporting, there being an excess of receipts over expenditures of $3,571,315; while in the other States and Territories there was an excess of expenditures over receipts amounting to $4,727,175.[1] The self-supporting list, with each surplus, is as follows: —

States and Territories.	Receipts.	Expenses.	Excess of receipts over expenditures.
Maine	$309,244.35	$293,667.27	$15,577.08
New Hampshire	198,238.89	165,370.21	32,868.68
Massachusetts	1,389,731.76	740,121.42	649,610.34
Rhode Island	149,800.95	76,046.78	73,754.17
Connecticut	418,048.99	312,415.28	105,633.71
New York	3,818,667.45	2,186,196.21	1,632,471.24
New Jersey	343,192.64	297,402.18	45,790.46
Pennsylvania	1,734,987.75	1,135,969.06	599,018.69
Delaware	49,291.11	45,496.69	3,794.42
Ohio	1,185,718.44	1,166,145.19	19,573.25
Michigan	550,107.68	537,012.97	13,094.71
Illinois	1,442,300.26	1,125,034.22	317,266.04
Iowa	438,636.79	398,381.21	40,255.58
District of Columbia	123,422.70	111,746.40	11,676.30
Alaska	316.72	150.00	166.72
Wyoming	18,086.09	7,322.37	10,763.72
Total	$12,169,792.57	$8,598,477.46	$3,571,315.11

[1] Report of Postmaster-General, November 15, 1869, pp. 104–5: Executive Documents, 41st Cong. 2d Sess., H. of R., No. 1.

Here I ask confidently, considering the nature of the Post-Office and the unquestionable importance of encouraging correspondence, if it is just that the letter-writers in one part of the country should be constrained to make the large contribution attested by this table, for the benefit especially of those at a distance, and also of the country at large. Rejecting again all idea of casting this expenditure upon the distant places and the pioneer, I insist that it should be borne by the Treasury rather than by remote letter-writers.

It is easy to exhibit the extent of this charge, and its palpable injustice. Begin with an illustration. Suppose a common carrier, with an interest beyond his business in an undeveloped part of the country at some distance from his daily line, makes a deviation to this outlying settlement at a daily loss, but looking to the growth of his interest there for ultimate remuneration. It would not be just for him to levy on all his customers along the main line for the expense of this deviation, — making them not only pay for their parcels, but contribute to the development of the outlying settlement. Nor would this enforced contribution commend itself, if urged in the name of charity or as a patriotic service to an infant community. The customers would insist that their parcels should pay only the legitimate cost of transportation and delivery; or they would soon find another carrier, who would charge them simply for their parcels, without adding the cost of opening new settlements. But the National Government is our common carrier, turning aside at great expense to develop and supply new places, to its great ultimate advantage in the sale of public lands, the growth of population, and increase of the revenue; but it is not justified in

casting this large expense on the correspondence of the people.

Already the Nation assumes the expenses of the Territories before their admission as States, paying the salaries of their various officers and the cost of administration. For equal reason the Nation should assume the expenses of these outlying post-routes.

By the kindness of the Postmaster-General I am enabled to present from the records of the Department two authentic testimonies. There is the post-route from San Antonio to El Paso, a distance of seven hundred and four miles, with the annual cost of service, $126,601, and the annual receipts from offices on the route, $3,137. There is also the post-route from Kelton, Utah, to the Dalles, Oregon, seven hundred and sixty-five miles, with the annual cost of service, $130,278, and the annual receipts from offices on the route, $3,822. Other instances might be adduced, but these are enough to show how seriously the postal service is burdened by obligations which plainly belong to the Treasury.

In former debates of the Senate, an incident was mentioned by Mr. Crittenden, of Kentucky,[1] which illustrates the character of these unproductive lines. During a journey in Tennessee in the summer of 1844, the Senator had occasion to go to an outlying post-office in the interior of the State, on reaching which, late at night, he found the postmaster had gone to bed, leaving the mail-bags in the wagons. To his inquiries concerning this singular circumstance, "Why, Sir," responded the official, "we don't take the bags out at all; we don't even look into them; it is so seldom we receive any-

[1] Speech on the Postage Bill, February 7, 1845: Congressional Globe, 28th Cong 2d Sess., p. 258.

thing, we don't think it worth while." And upon investigation it in fact appeared that there was not a letter in any one of these bags, and had not been for a month. But this costly mail-service was at the expense of the correspondence elsewhere. The letter of the distant seaboard was a contributor.

DISTANCE ALONE DOES NOT CAUSE EXPENSE.

Sometimes it is supposed that the great distances of our country cause the large expense; but this is a mistake, founded on superficial observation. The large expense proceeds from something besides distance. Here I quote the words of Rowland Hill: —

"It is not matter of inference, but a matter of fact, that the expense to the Post-Office is practically the same, whether a letter is going from London to Barnet [eleven miles] or whether it is going from London to Edinburgh [four hundred miles]; the difference is not expressible in the smallest coin we have."[1]

I have already mentioned that the actual cost of transportation from London to Edinburgh was only one thirty-sixth of a penny, and this was the average for all letters throughout the United Kingdom. With so small a fraction of a penny representing the cost of the longest line, it was apparent that the element of distance must be eliminated from the question. A recent writer thus strongly testifies to this rule: —

"If Mr. Hill demonstrated one thing more plainly than another, it was that the absolute cost of the transmission of each letter was so infinitesimally small, that, if charged ac-

[1] First Report from Select Committee on Postage, p. 13, — Minutes of Evidence, No. 114: Parliamentary Papers, 1837-8, Vol. XX. Part 1.

cording to that cost, the postage could not be collected. Besides, it is not certain that the one letter would cost the Post-Office more than the other." [1]

But this rule is as applicable in our country as in the United Kingdom, always provided the lines are productive.

This rule, first enunciated by Rowland Hill, was substantially adopted by the Parliamentary Committee, when they say, —

"That it is the opinion of this Committee, that that part of the inland postage on letters *which consists of tax* ought to be the same on all; that, as the cost of conveyance per letter depends more on the number of letters carried than on the distance which they are conveyed, the cost being frequently greater for distances of a few miles than for distances of hundreds of miles, the charge, if varied in proportion to the cost, ought to increase in the inverse ratio of the number of letters conveyed; but as it would be difficult, if not impossible, to carry such a regulation into practice, and as the actual cost of conveyance (assuming the charged letters to bear the whole expense of the franked letters and of the newspapers) forms less than the half of the whole charge exclusive of tax, the remaining portion consisting chiefly in the charges attendant on their receipt at and delivery from the Post-Office, your Committee are of opinion that the nearest practicable approach to a fair system would be to charge a uniform rate of postage between one post-town and another, whatever might be their distance; and your Committee are further of opinion that such an arrangement is highly desirable, not only on account of its abstract fairness, but because it would tend in a great degree to simplify and economize the business of the Post-Office." [2]

[1] Lewins, Her Majesty's Mails, (2d edit.,) p. 172, note.

[2] Third Report from Select Committee on Postage, p. vi: Parliamentary Papers, 1837-8, Vol. XX. Part 1.

All this is plainly reasonable, whether in the United Kingdom or the United States.

The actual cost of each letter is inversely as the number of letters, irrespective of distance. The weight enters very little into the question. Take, for instance, a route of ten miles, at ten cents a mile, and another of one hundred miles at the same rate. If on the route of ten miles there is an average of only one letter, as is the case on some routes, this one letter would cost one dollar, while ten thousand letters on the route of one hundred miles would cost only one mill a letter. The Post-Office pays a fixed compensation for the daily transportation of its mails between certain places, and this compensation is not varied by any addition to the number of letters. Therefore on all productive or paying lines, as between Washington and New York, and then between New York and Buffalo, additional letters may be received for distant places, without adding to the cost, until the letters reach St. Louis or New Orleans, or any other place accessible by a self-supporting line, and the actual cost of a letter for the longest distance will be no more than for the shortest. It will be the same alike to New Orleans and to New York. Thus on the assumption of a continuous self-supporting line the question of distance does not enter into the cost, and thus again we see the injustice of compelling the correspondence on such a line to the contributions it is now obliged to make.

EXISTING RATE NOT OPPRESSIVE A FALLACY.

Here I encounter an old-fashioned objection common in England as well as in the United States, and which

has shown itself at every proposed change in the postal service. It is said that the existing rate is not oppressive, and that there is no need of its reduction. Obviously it is not oppressive to Senators and Representatives, who send and receive unnumbered letters free; nor is it oppressive to their correspondents; nor again is it oppressive to the rich and thriving, for they contribute out of their abundance; but plainly and indubitably it is oppressive to the poor, and it is absurd to say that it is not. Plainly and indubitably it is oppressive to the widowed mother, whose best comfort is correspondence with her absent child; it is oppressive to the child corresponding with mother, sister, or brother; it is oppressive to all whose scanty means supply only the necessaries of life. All these are restrained in the gratification of those affections which contribute so much to human solace and strength.

Do not say that practically there is little difference between three cents and one cent, — that the difference is hardly appreciable. A great mistake. Is it not appreciable in the cost of tea, coffee, and sugar? The reduction of one cent a pound in the tariff on sugar, of two cents on coffee, or of a few cents on tea, is not treated as trivial.

There is the poor pensioner with eight dollars a month. She, too, has family and friends; but the postal tax interferes to arrest the congenial intercourse. Every letter adds to the burden she is obliged to bear. Her fingers forget the pen, and she finds herself alone. Nor is this hardship peculiar to the poor pensioner. An eminent citizen and valued friend, who has given much attention to this subject, states the case thus: "When one of my children is absent, I write a line every day.

Suppose I were a poor widow, earning barely enough to make the two ends meet, and had children in the West, to each of whom I should want to write at least once a week, making in all several dollars a year; then the cost would be oppressive." This simple illustration brings home the operation of the postal tax now imposed by law, and shows how it troubles those who most need the care and tenderness of the world. The tax on letters is like the tax on salt. If it must exist, it must be small, very small.

There are some who think that no existing institution is oppressive. According to them, Slavery was not oppressive. In the same mood, the law of 1845, with its two rates of five cents and ten cents, and then again the law of 1855, by which the rate of five cents was reduced to three cents, were pronounced unnecessary. The multifarious rates anterior to 1845 were not oppressive, and in 1855 there was no call for the reduction of the rate from five cents to three cents. Such was the argument then, precisely as now. So in the days of Slavery it was argued that the slaves did not desire freedom, and that their condition was not oppressive. The great reform of Rowland Hill encountered the same objection. Even Lord Ashburton, while favoring a change, was content with twopence or threepence, and, in his testimony, settled down upon threepence as satisfactory. He shrank from the penny rate.[1] This question was treated with excellent sense by Mr. Jones Loyd, whom I have already quoted, whose testimony bears strongly on this very objection. After saying "that the present rate of postage does in point of fact produce a prohibi-

[1] Second Report of Select Committee on Postage, p. 149, — Minutes of Evidence, Nos. 8134, 8135: Parliamentary Papers, 1837-8, Vol. XX. Part 2.

tion of the use of the Post-Office to all classes that may be considered as below the higher classes,"[1] the attention of the witness was called by the Committee to the allegation "that the laboring classes do not feel the oppressive rate of postage." He replied in words of wisdom worthy of memory now, and completely applicable to the very question now before the Senate: —

"The habits of a people are in a great degree the result of the laws under which they live; the high charges of our Post-Office have induced, amongst all but the richer classes, a habit of abstaining from epistolary communication, and it might take some time to correct that habit. But it appears to me very desirable that the impediment should be removed; and I have no doubt, that, in the course of a short time, as the poorer classes have the common affections of the human breast, they would form a taste for the pleasures to be derived from intercourse with absent friends and relations. It would be very desirable, for the moral interests of the community, that every facility should be afforded for that purpose."[2]

On the "oppression of a tax," where persons do not use the article taxed, the intelligent witness testified as follows: —

"They may not know the loss they sustain; but that does not alter the fact that they do sustain a very great loss; and it would be highly criminal and cruel voluntarily to inflict such a loss upon a person merely upon the ground that he does not know it. A child that is born blind does not know the advantages of sight; but still it would be a very extraor-

[1] Second Report of Select Committee on Postage, p. 303, — Minutes of Evidence, No. 10362: Parliamentary Papers, 1837-8, Vol. XX. Part 2.

[2] Ibid., Minutes of Evidence, No. 10363.

dinary thing to inflict blindness upon a child, merely upon the ground, that, if you do it, in time he will not know the loss he has sustained."[1]

All this is plain and unanswerable. The oppressiveness of a tax is not to be measured by the insensibility of the people on whose shoulders it is laid. It is a curiosity of despotism that the people are too often unconscious of their slavery, as they are unconscious also of bad laws. A wise and just Government measures its duties not by what the people bear without a murmur, but by what is most for their welfare; and it is to this criterion that I bring the question of cheap postage. Say not that the people are indifferent and do not ask for this reduction. Is it not for their good? Is not the advantage so eminent and unequivocal that the Government can no longer hesitate, especially at this transitional moment, when our country is passing from the Old to the New, and the people more than ever are assured in their rights?

JUSTICE AND PRACTICABILITY OF ONE CENT POSTAGE.

After this exhibition of existing burdens, so prejudicial to the correspondence of the country, I return again to the main postulate of this argument, that a uniform rate of one cent for a letter of half an ounce is entirely reasonable, and in a short time, with proper relief in other directions, would render the Post-Office self-supporting. Here I introduce the testimony of a gentleman practically conversant with the operations of our Post-Office, who writes to me as follows:—

[1] Second Report of Select Committee on Postage, p. 303,—Minutes of Evidence, No. 10364.

"Taking the weight of the letter mail-matter and the printed mail-matter, and charging the expense of transportation upon each proportioned to the weight, and one cent is all that would be relatively chargeable upon each half-ounce of letter mail. I speak from close daily observation in a large office, in a region that is a large revenue-paying one to the Department on all mail-matter."

This testimony of an expert is only in harmony with my own conclusion.

This injustice becomes more apparent, when we consider the disproportion between the cost of other transportation and letter postage. Take, for instance, the fare of a passenger on a railway in comparison with that of a letter. The average weight of passengers with their baggage is supposed to be 230 pounds, which is the weight of 7,360 half-ounce letters, paying, at the present rate of three cents, $220.80, irrespective of distance. The following table, prepared some time ago, shows the cost of other transportation: —

From Boston —	Passenger fare.	Mills per half oz.	Express freight. 230 lbs.	Mills per half oz.
To New York	$4	.5	$1.50	.2
" Philadelphia	7	.9	3.50	.5
" Baltimore	10	1.3	5.50	.7
" Cincinnati	25	3.4	10.50	1.4
" St. Louis	35	4.7	12.00	1.6
" New Orleans	45	6.1	14.00	1.9
" Liverpool per Cunard steamers . .	120	16.3	7.20	.9

In other transportation there is a slight increase in proportion to the distance; but it is difficult to see on what principle a mail-bag between Washington and New York should pay more than a passenger; and the same difficulty occurs when we consider ocean post-

age, where the disproportion between postage and other transportation is, perhaps, more conspicuous. Elihu Burritt, who has enforced the importance of cheap rates on the ocean with admirable comprehension of their importance, has reminded us that the freight of a barrel of flour, weighing two hundred pounds, is about fifty cents, while the charge for the same weight in half-ounce letters, being sixty-four hundred in number, at the rate of twenty-four cents a letter, would be no less than $1,536, and at the rate of one cent would be sixty-four dollars. These instances show that letters have been always overcharged, or charged out of proportion to their weight.

To my mind it is unjust that the letter everywhere should contribute so largely to the transportation and delivery of other mail matter, while in some parts of the country it contributes besides to postal facilities elsewhere. I think I do not err, when I aver, that, even with the latter burden, the Post-Office, if it carried nothing but letters, *and every letter paid one cent*, would be self-supporting. I put the case in this way so as to exhibit the essential equity of the proposed reduction, and, I would add, its entire practicability. Although the Post-Office cannot be relieved of the other mail-matter, yet the letters can be relieved of the burdensome contribution to which they are now subjected. One cent postage would give new operation to the law according to which reduction of price tends to produce consumption, and there would be a new impulsion to correspondence, by which in a short time it would be doubled, tripled, quadrupled, quintupled, and sextupled, — nay, in our growing country it would be multiplied beyond calculation.

As to this increase, I have already shown something of its progress in Great Britain, beginning with one hundred and twenty-two per cent. the first year of penny postage.[1] Why may not the same take place with us? According to the official table now on our desks, the smaller population of the United Kingdom sends more letters than ours. It would be difficult to credit this result, if the figures did not tell the tale beyond correction. Here is the table:[2]—

Proportion of Letters and Revenue to Population.	United States, year ending June 30, 1868.	United Kingdom, year ending Dec. 31, 1867.
Population (estimated)	40,092,356	30,305,284
Number of letters delivered (estimated)	488,000,000	774,831,000
Number of letters to each person . .	12	26
Gross revenue	$16,232,148.16	$23,341,070
Amount of revenue to each person of aggregate population	40 cents	77 cents

Testimony could not be stronger. The smaller population sends a larger sum-total of letters, making of course a larger number for each person, and yielding a larger gross revenue. It is humiliating to think that the people of this Monarchy send at the rate of twenty-six letters for each person, while the citizens of our Republic send only at the rate of twelve for each person. The inverse disproportion of letters becomes the more remarkable, when it is understood that the proportion of people who can read and write is greater among us than in the United Kingdom, so that, all other things being equal, the number of letters by each person should be greater among us; but we are obliged to confront the

[1] *Ante*, p. 87.

[2] Letters of Postmaster-General, February 26 and May 21, 1870: Executive Documents, 41st Cong. 2d Sess., Senate, No. 53, p. 8, and No. 86, p. 2.

unquestionable fact that the number is less. How is this? Why is this? I know no way of accounting for it except in the discouraging cost of correspondence. Here I find unquestionable reason to conclude that we have not a proper rate of postage. Clearly something is wanting. It is not education; for the people among us excel the British people in this respect. It is not business, or family, or friendship; for are not all these active with us? I submit that we want nothing but cheap postage, so that the people, finding their means in harmony with the rates, shall be tempted to write letters. So it was in England; and so it may be among us.

Against the entire reasonableness of the proposed rate, it will not do to say that in the wages of English labor a penny is the equivalent of three cents among us. Even if it be so, there is a twofold answer to the allegation: first, that convenience and reason concur in favor of the lowest unit of coin, which with us is the cent, as in England it is the penny; and, secondly, that with us the general scale of salary and expenditure is less than in England, beginning with the President as compared with the Queen, and embracing the functionaries of Government in the two countries. The penny, which is a larger unit than the cent, typifies the larger scale of price; so that our postage will be brought to practical equality with that of England only by the adoption of the corresponding unit of our country. If this seems refined or technical, let me add that I adduce it only in answer to an objection, which forgets not only the beauty of that simplicity found in the lowest unit of coin, but also that fundamental difference between England and the United States found in their respective institutions.

POSSIBLE LOSS OF REVENUE.

HERE I am reminded of the possible loss of revenue, and this is set up as an insuperable barrier; but I confess, that, when I regard the infinite good from this reform, I am little concerned by any such prospect. Better any possible loss of revenue than the postponement of such a good. Nobody can say positively what the loss will be. It is only an estimate, or, if you please, a guess. Some may make it high, others low. According to the last Reports of the Postmaster-General, the actual deficiency, with the rate of three cents, was $5,353,620, and the estimated deficiency for 1870 is $7,440,413; but in both cases the expenditures are swollen by illegitimate and extrinsic charges on the Post-Office properly belonging to the Treasury. For 1871, with the rate at three cents, the estimated expenditures, swollen by the illegitimate and extrinsic charges, are $25,581,093, with receipts, $20,178,961, leaving a deficiency of $5,402,132.[1]

Making the estimate for 1871 with the rate of one cent, and assuming an increase in correspondence at only one hundred per cent., there would be a deficiency of $12,128,452, from which should be deducted the illegitimate and extrinsic charges properly belonging to the Treasury. Considering these for one moment, you will see how small the deficiency will be; and here I follow the last Report of the Postmaster-General, who does not hesitate to estimate the proportion of free matter in the mails at twenty-five per cent. of the whole, so that, ac-

[1] Reports of Postmaster-General, December 3, 1868, p. 2, and November 15, 1869, p. 3: Executive Documents, H. of R., No. 1, 40th Cong. 3d Sess., and 41st Cong. 2d Sess.

cording to him, "it will appear that the Government is bound in honor and justice to appropriate $5,000,000, instead of $700,000 [the present appropriation], for this service."[1] But with the abolition of the franking system all this postal matter will pay the ordinary rate, and thus contribute to the postal service. Deduct also another sum for the expenditures of outlying routes, justly chargeable upon the Treasury, like the existing franking system.

Such is the whole case as to any possible loss of revenue, which I state with entire frankness; but I cannot doubt that a short period would witness a change, while the people entered into the enjoyment of their great possession. Letters would daily multiply, and the revenue would bear witness to the increase.

THE POST-OFFICE NOT A TAXING MACHINE, BUT A BENEFICENT AGENCY.

Only in obedience to traditional usage have I dwelt thus long on the financial aspect of this question, which to my mind is the least important of all. Not to make money, but to promote the welfare of the people, and to increase the happiness of all, — such is the precious object I would propose; and here I ask no such question as, "Will it pay?" It may not pay in revenue at once, but it will pay in what is above price. Unhappily, the Post-Office, whether at home or abroad, has been from the beginning little more than *a taxing machine*, a contrivance to raise money, or a "milch cow" with fruitful dugs. In England it was at times farmed out to a speculator, and then again it was charged with the sup-

[1] Report of the Postmaster-General, November 15, 1869, p. 27.

port of a royal mistress or favorite. For its profits only was it regarded, and not for its agency in the concerns of life. In this respect it was not unlike the Government, which was simply a usurpation for the benefit of the few. All this is now changed, at least among us, and Government is the creation of the people for their good. The Post-Office should share this transformation. Instead of a mere taxing machine, or contrivance to raise money, or "milch cow" with fruitful dugs, it should be an omnipresent beneficent minister, reaching its multitudinous hands with help and comfort into all the homes of our wide-spread land. Such it is already in England, to the infinite joy of all. But the omnipresent beneficent minister belongs to a republic more than to a monarchy. Cheap postage is a republican institution. If England has anticipated us, we may at least profit by her example.

It is because Senators see the Post-Office only in its least elevated, not to say its most vulgar character, that there is any hesitation. Contemplate for one moment, if you please, its great and beautiful office. It is the universal messenger of a people, bearing tidings of all kinds, whether of business, hope, affection, charity, joy, or sorrow, and articulating them throughout the land. There is nothing that man can do, desire, or feel, which is not contained in the various and abounding errand. The letters of a single day are the epitome of life, and this service is unceasing. Every day this messenger flies over the land, from city to city, from town to town, from village to village, from house to house, leaving everywhere the welcome token. Such a messenger is more than a winged Mercury, with sandalled feet and purse in hand, whose special care was commerce; it is

an angel in reality, as in name. In the ancient Greek, from which the word is derived, an angel was a messenger; and is not the office of our messenger angelic? But by what rule or reason can you tax such a messenger in his great and beautiful office?

A letter is simply conversation in writing, and therefore, by strictness of logic, the tax you impose is a tax on conversation. Reflect a moment on the part performed by conversation in the education of men and in the economies of life; and here I give you testimony. Once at Mr. Webster's table I heard the question discussed, "From what do men derive most of what they know?" The scholars about him answered, — one naming "Our Mothers," another "Schools," another "Books," another "Newspapers," when the host, who had listened to each, remarked, very gravely, "You forget Conversation, from which, in my judgment, we derive the larger part of what we know." Who shall say that Mr. Webster was not right? It is clear that conversation is a wonderful educator and a constant servant. But conversation in writing, no matter on what subject, whether of business or of the heart, is now subject to an unrelenting tax, so that persons conversing by letter must not only pay the cost of the intermediary in their own case, but must contribute to the expense of other conversations elsewhere.

THAT THE POST-OFFICE MUST SUPPORT ITSELF A FALLACY.

CUSTOM makes us insensible to folly, and even to injustice. Thus the tax on letters has gained an undeserved immunity, which is augmented by a prevailing

notion, sometimes supposed to find authority even in the Constitution, that the Post-Office must support itself. Whether regarded as rule or maxim or provision of the Constitution, it is without foundation, and sooner or later will be classed with those "vulgar errors" which are as disturbing in government as in science. There is nothing in the Constitution or in reason to distinguish the Post-Office in this respect from the Army, the Navy, or the Judiciary. The Constitution confers upon Congress the power "to establish post-offices and post-roads," precisely as it confers upon Congress the power "to raise and support armies," the power "to provide and maintain a navy," and the power "to constitute tribunals inferior to the Supreme Court"; and in each of these cases it is empowered "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." Nobody suggests that now in peace our armies shall amplify their commissariat by enforced contributions, that our navy shall redouble its economies by supplementary piracy, or that our tribunals inferior to the Supreme Court shall eke out a salary by requisitions on the suitors, to the end that each of these departments may be in some measure "self-supporting." Why, then, should the Post-Office be subjected to a different rule? Not, surely, because it is less beneficent; not because it is the youngest child of Government, a very Benjamin, coming into being long after the others. But such is the case. The rule for the others is discarded when we come to the Post-Office, and here for the first time we hear that a Department of Government must be "self-supporting."

As there is no ground in the Constitution for this

pretension, so is there none in reason. Of all existing departments, the Post-Office is most entitled to consideration, for it is most universal in its beneficence. That public welfare which is the declared object of all the departments appears here in its most attractive form. There is nothing which is not helped by the Post-Office. Is business in question? The Post-Office is at hand with invaluable aid, quickening and multiplying all its activities. Is it charity? The Post-Office is the good Samaritan, omnipresent on all the highways of the land. Is it the precious intercourse of family or friends? The Post-Office is carrier, interpreter, and handmaid. Is it education? The Post-Office is schoolmaster, with school for all and with scholars counted by the million. Is it the service of Government? The Post-Office lends itself so completely to this essential work, that the national will is conveyed without noise or effort to the most remote corners, and the Republic becomes one and indivisible. Without the Post-Office where would be that national unity, with irresistible guaranty of Equal Rights to All, which is now the glory of the Republic? Impossible! absolutely impossible! Therefore, in the name of all these, do I insist that now, in these days of equality, the Post-Office shall be admitted to equality with all other departments of Government, so that it may discharge its own peculiar and many-sided duties, without being compelled to find in itself the means of support. It has enough to do without taking thought of the morrow. On every side and in every direction it is the beneficent helper. To the Army it is a staff; to the Navy it is a tender; to the Treasury it is a support; to the Judiciary it is a police; to President and Congress it is an adjunct; and to all else, public or

private, whatever the interest, aspiration, or sentiment, it is an incomparable ally. Better than two blades of grass are two letters where was only one before; and when the precious product is measured by millions, you see the vastness of the beneficence.

OUR POST-OFFICE MUST BE THE BEST IN THE WORLD: PRESENT DUTY.

Such is the Post-Office; and nothing is clearer than that here in the United States it should be of the highest type. Ours should be the best in the world, — not second to any. So long as Slave-Masters bore sway, this could not be; for they set their faces against this minister of Civilization. One of the first legislative acts of the Rebel Government at Montgomery was to raise the rates.[1] But this hostile obstruction is now overcome, and we are at last free to act for the good of all. It is for the welfare of the people that our Republic is founded, and therefore it should omit nothing by which their condition is improved and elevated. Other Governments may seek to augment the revenue. Our aim should be to augment the sum of human happiness, making it the crown of our whole people; and just in proportion as we fail in this duty is the Republic a failure. But the best Post-Office is where letters at the smallest charge are faithfully carried to every door, thus combining cheapness and efficiency. That ours may fulfil this condition there must be a change.

[1] For example, on letters of one half-ounce weight or under, the rate for distances not exceeding five hundred miles was made five cents, and for greater distances ten cents. — *Act to prescribe the Rates of Postage*, February 23, 1861, Statute I. Ch. 13 : Statutes at Large of the Provisional Government of the Confederate States of America, (Richmond, 1864,) p. 34.

Our duty is simple. It is to relieve the Post-Office of present burdens, including especially the franking system and the expense of unproductive routes, while at the same time we establish a uniform rate of one cent. To these cardinal objects may be added others named in the bill introduced by me, especially the requirement of payment always by stamps, so as to simplify the accounts and to make peculation impossible; but the fundamental change is in the rate of postage.

Could my desires prevail, the Post-Office should be like the Common School, open to all, with this only condition, that the rate should be sufficient to guard against abuse. But this is accomplished by that now proposed.

Let the uniform rate be one cent and you will witness a transformation. The power to frank, which is now confined to a few, will practically belong to all, and letters will be multiplied in proportion, — opening to the people an inexhaustible source of all good influences, whether of education, wealth, virtue, or happiness, while the Republic rises in the scale of civilization. Such a rate will be better than a mine of gold in every State, — better than a band of iron for the Union, — better than a fortress scowling on uncounted hilltops; for it will be an angelic power.

And could this rate be extended to international postage, its least service would be to our commercial relations. Beyond this would be an inconceivable influence on that immigration to our country which is a constant fountain of life, while it carried into the homes of the Old World the most seductive invitations to take part with us in our great destinies. Republican ideas would

be diffused, and the Rights of Man gain new authority. Every letter from glowing firesides among us, when read at colder firesides abroad, would be a perpetual proclamation of the Republic.

More than ever this change is needed now. It is essential in the work of Reconstruction, which can be maintained only through the national unity. The very extent of our country, which is superficially urged as the apology for a high rate, is to my mind an all-sufficient reason for the proposed reform. Because our country is broad and spacious, therefore must distant parts be brought into communication and woven together by daily recurring ties. Because our people are various in origin and language, therefore must they be enabled to commingle and become homogeneous. And, lastly, because fellow-citizens have suffered and been separated by terrible war, therefore must the Post-Office become a good angel to quicken industry, to remove ignorance, to soothe prejudice, and to promote harmony. Blessed are the peace-makers; and in this company the Post-Office, properly reformed, will take an illustrious place.

CHINESE INDEMNITY FUND.

REPORT IN THE SENATE, OF THE COMMITTEE ON FOREIGN RELATIONS, JUNE 24, 1870.

THE Committee on Foreign Relations, to whom was referred the message of the President of March 10, 1870, covering a report of the Secretary of State and correspondence concerning the Chinese Indemnity Fund, also certain petitions on the same subject, have had the same under consideration, and beg leave to report.

THE origin and history of the Chinese Indemnity Fund are found in authentic documents, so that little need be done except to state the case from these authorities.

The British and French expeditions of 1858, which, after capturing Canton, turned their combined forces toward Peking, and ascended the Pei-ho as far as Tien-tsin, opened the way to the presentation of claims of our citizens, which were promptly recognized by the Chinese Government. Though taking no part in the war, our people profited by the result. The convention that ensued was born of the war.

THE CONVENTION AND PAYMENT OF CLAIMS.

CLAIMS were brought forward amounting to more than one and a quarter million of dollars; but Mr. Reed, our

Minister in China, concluded, after examination, that 600,000 taels, or about $840,000, was a proper estimate for all rightfully due. Accordingly he entered into an arrangement with the Chinese plenipotentiaries for their prospective liquidation. At first there was nothing but an agreement in correspondence, being a sort of executory contract, which was unsatisfactory in form, incomplete in stipulations, and embarrassed by the condition that in the adjudication of the claims a Chinese officer should take part. All this involved delay, at least, if not more. At last this agreement was embodied in the terms of a convention between the two governments, dispensing with Chinese coöperation, and the amount of damages was reduced to 500,000 taels, to be paid from the maritime revenues of Shanghai, Foo-chow, and Canton, in complete discharge of all demands.[1]

The original agreement was at Tien-tsin, where the Chinese met the British, French, and Russian negotiators; but the convention was finally executed at Shanghai, November 8, 1858. The statement already made appears in the terms of the convention. After setting forth that certain maritime revenues were pledged for the payment of American claims, "to an amount not exceeding 600,000 taels," the convention proceeds to declare, "And the plenipotentiary of the United States, actuated by a friendly feeling towards China, is willing, on behalf of the United States, to reduce the amount needed for such claims to an aggregate of 500,000 taels"; and then it is agreed "that this amount shall be in full

[1] Report of Mr. Fish, Secretary of State, March 10, 1870, with Copy of Convention, November 8, and Letter from Mr. Reed to Mr. Cass, November 10, 1858: Executive Documents, 41st Cong. 2d Sess., Senate, No. 58, pp. 3, 14-17.

liquidation of all claims of American citizens at the various ports to this date." [1]

Mr. Reed, in communicating this treaty to the Department of State, says, under date of November 10, 1858: —

"Nor has there been any great difficulty in effecting it, the Chinese plenipotentiaries showing no disposition to evade the agreement they had entered into at Tien-tsin, and being quite willing to arrange the details on reasonable grounds." [2]

The Minister then proceeds to say, that his first duty — "not the less binding because to the Chinese" — was to revise the claims themselves, and ascertain whether, after giving credit for such as had in the mean time been settled and paid, and applying some clear principle of law, the aggregate could not be reduced; and he adds, that "the amount assumed at Tien-tsin was an arbitrary one." In order to arrive at a more precise result, he called upon the claimants for a revised statement of their demands. In many instances the requisition was complied with; in others it was made the occasion for "all sorts of speculative and contingent claims, — such, for example, as a vice-consul asking to be remunerated for fees that he might have made, and the captain of a steamer claiming the profits of a year to come." Notwithstanding these instances the claims were revised in a proper spirit, and were sensibly reduced by the claimants themselves. Still there were many of a contingent character. On a careful review of all the evidence before him, the Minister was satisfied that he could materially reduce the amount to be

[1] Executive Documents, *ut supra*, p. 14. Statutes at Large, Vol. XII. p. 1081.

[2] Executive Documents, *ut supra*, p. 16.

demanded, which was accordingly done. In the draught of the convention first submitted to the Commissioners at Shanghai, the amount stated was 525,000 taels, with a provision, that, in case of excess beyond the claims and interest, it should be refunded to the Chinese Government; on which the Minister remarks: "They preferred, however, the small sum without such provision, evidently thinking it was their best policy to get rid of the matter forever."[1] The language of the Commissioners was: —

"We acknowledge the consideration and kindness of your Excellency in this matter, in that you have, of your own accord, reduced the first amount of claims, and now place the total at 525,000 taels. We have taken the matter into full consultation, and propose, that, if a further reduction of 25,000 taels be made, fixing the total amount at 500,000 taels, then custom-house certificates can be issued at Canton, Shanghai, and Foo-chow, dating from the first day of our next year, (February 3, 1859,) which can be successively applied to the gradual payment of the entire sum."[2]

These terms were embodied in the final convention between the parties.

After this exposition, the Minister declares that the convention, if ratified by our Government, and carried into execution by the Chinese, as he did not doubt it would be, would liquidate every claim on China by citizens of the United States, principal and Chinese interest at twelve per cent. per annum, on most of the claims for three years, and for a longer period on others, among which was one as ancient as 1847, which had occupied the attention and excited the sympathies of many of his predecessors.

[1] Executive Documents, *ut supra*, pp. 16,17. [2] Ibid., p. 20.

The Minister appends a tabular statement of claims, with a list of what he calls "Claims Suspended," among which is one known as "The Caldera," to which reference will be made hereafter. He then says: —

"A sufficient sum can be reserved to cover these claims, *all of which are more or less doubtful.*"

And adds: —

"If they be recognized, and the principle of paying interest be adopted throughout, the fund will be exhausted. If they be disallowed, though interest be paid to all the other claimants, there will be a surplus at the disposition of the Government."[1]

Thus early was there anticipation of a surplus.

At the same time the Minister suggested that Congress should provide for the adjudication of the claims and a dividend among claimants. This was done by the Act of March 3, 1859, entitled "An Act to carry into effect the Convention between the United States and China, concluded on the 8th of November, 1858, at Shanghai,"[2] authorizing the appointment of commissioners "to receive and examine all claims which may be presented to them under the said convention, according to the provisions of the same, the principles of justice and International Law," — and further providing "that the said commissioners shall report to the chief diplomatic officer in China the several awards made by them, to be approved by him," which are to be paid out of the revenues set apart for this purpose, in ratable proportion, "according to the direction of the said diplomatic officer."

[1] Executive Documents, *ut supra*, p. 18.

[2] Statutes at Large, Vol. XI. p. 408.

The examination of the claims was completed in January, 1860, and the payments directed by the Commissioners were duly made. Then occurred a condition of things almost without precedent in the relations of nations. After all the payments directed by the Commissioners, a large surplus was found in the custody of the legation at Peking, which was subsequently transferred to the United States. This surplus, with accumulations of interest and gain by exchange, less an amount paid under authority of an Act of Congress approved February 22, 1869,[1] has been invested in Ten-Forty bonds, which are now held by the State Department, amounting at par to $386,000. Another amount of $206.87 in cash is also in the possession of the Department; and about $2,000 remain in the custody of the Minister to China, who has been directed to make remittance of the same.[2]

The Secretary of State, in his Report on this subject, as late as March 10, 1870, says that he "is not aware of any claims against this fund which have not been considered by the Commissioners and determined by them."[3]

PROPOSITIONS WITH REGARD TO SURPLUS.

THIS surplus has been the subject of discussion for more than a decade of years. During all this time it has been before Congress without any definitive action. As long ago as December, 1860, it was thus noticed by President Buchanan in his Annual Message:—

"After the awards shall have been satisfied, there will remain a surplus of more than $200,000 at the disposition of

[1] Statutes at Large, Vol. XV. p. 440.
[2] Executive Documents, *ut supra*, p. 3.
[3] Ibid.

Congress. *As this will in equity belong to the Chinese Government,* would not justice require its appropriation to some benevolent object in which the Chinese may be specially interested?"[1]

Nothing was done by Congress, and President Lincoln, in his Annual Message of December, 1861, thus followed in the footsteps of his predecessor:—

"I repeat the recommendation of my predecessor, in his Annual Message to Congress in December last, in regard to the disposition of the surplus which will probably remain after satisfying the claims of American citizens against China, pursuant to the awards of the Commissioners under the Act of the 3d of March, 1859. If, however, it should not be deemed advisable to carry that recommendation into effect, I would suggest that authority be given for investing the principal, over the proceeds of the surplus referred to, in good securities, with a view to the satisfaction of such other just claims of our citizens against China as are not unlikely to arise hereafter in the course of our extensive trade with that empire."[2]

The subject was at this time considered by the Committee on Foreign Relations, aided by the Secretary of State, who laid before the Committee all the original papers relating to the proceedings of the Commissioners. In a communication to the Committee,[3] Mr. Seward stated the case as he understood it, recognizing "the refunding of the whole amount to the Chinese" as one of the methods which "suggest themselves." This was in the summer of 1862, at the most critical period of the war for the suppression of the Rebellion, and the

[1] Executive Documents, 36th Cong. 2d Sess., Senate, No. 1, p. 18.
[2] Executive Documents, 37th Cong. 2d Sess., Senate, No. 1, p. 5.
[3] See Appendix (A).

Committee did not feel disposed at that time to make any recommendation with regard to the fund.

Meanwhile the disposition of this fund was discussed elsewhere. Our distinguished representative in China, Mr. Burlingame, entered upon it with characteristic ardor. Regarding the fund as essentially Chinese in character, if not belonging in equity to China, he urged that it should be devoted to the foundation of an institution of learning at Peking, which he proposed to call The American College, or *Ta-Mei Kwoh Hioh-kung:* first, to teach Americans the language and literature of China, so as to fit them to be interpreters and consuls; and, secondly, to educate Chinese in English studies and in their own literature, with a view to employment by their own rulers or by the United States. The usefulness and practicability of such a college were developed in two elaborate dispatches, — one bearing date Shanghai, May 19, 1862,[1] and the other, Peking, November 18, 1863,[2] in the course of which Mr. Burlingame said that he was "disposed to urge the adoption of this proposal more with a reference to the benefit such a college would be to the Chinese than to ourselves."[3] Not content with thus declaring his desire to make this fund of benefit to them, he says, "In equity the balance appears to belong to the Chinese, but they have no voice in its

[1] Diplomatic Correspondence, 1862-3, pp. 843-6: Executive Documents, 37th Cong. 3d Sess., H. of R., No. 1, Vol. I.

[2] Diplomatic Correspondence, 1864-5, Part 3, pp. 346-8: Executive Documents, 38th Cong. 2d Sess., H. of R., No. 1, Vol. III.

[3] Mr. Burlingame to Mr. Seward, May 19, 1862: Diplomatic Correspondence, 1862-3, p. 844. — This disposition of the surplus appears to have been first suggested as early as November, 1860, in an informal communication to Mr. Cass from Mr. S. Wells Williams, the accomplished Chinese scholar, and interpreter to the U. S. Legation in China. The outlines of the plan there mentioned were afterwards more fully developed in Mr. Burlingame's dispatches.

disposal."[1] His eloquent appeal has thus far been without effect. Nothing has been done to carry out his recommendation, and the question still remains, What to do with the fund?

It is sometimes proposed that this fund should be reserved for the satisfaction of possible claims hereafter. But this would be contrary to the terms of the convention, which expressly provides for the "claims of American citizens at the various ports *to this date*," — thus positively limiting the disposition of the fund. Mr. Burlingame, without referring to the terms of the convention, objected to any such reservation as calculated to produce embarrassment in our relations with China. According to him, "*it would be preferable to return the whole to them*, or distribute the money, as it accrues, to the disappointed claimants, and those Chinese in the employ of our citizens who suffered severe losses in consequence of their connection with them, than to lay it aside for future contingencies to settle with a government like the Chinese."[2] His authority on this proposition may be considered decisive.

But there is another consideration which leads to the same conclusion. Any retention of the fund to meet possible future claims is a plain recognition of the interest, if not the proprietorship of China; and since there is no authority under the convention for its application to possible future claims, it will be at least questionable whether the Chinese Government should not have a voice in the adjudication of such claims. At all events, we shall assume a peculiar responsibility, if we undertake to apply this fund to claims not contemplated by

[1] Mr. Burlingame to Mr. Seward, May 19, 1862: Diplomatic Correspondence, 1862-3, p. 845.

[2] Ibid.

the convention. Nor is there any reason of expediency which can justify such an assumption on our part. China has evinced no disposition to be otherwise than just to American citizens. Although twelve years have elapsed since the date of the convention, there are no outstanding claims against China which have received the sympathy of our Government. Should any such claims arise, it were far better that they should be presented directly, and be satisfied by an award in their favor. Meanwhile the old account should be closed.

A remark of Mr. Burlingame, already quoted, requires one word of comment. He mentions, as a possible course, the distribution of the fund among "disappointed claimants, and those Chinese in the employ of our citizens who suffered severe losses in consequence of their connection with them." Of the Chinese mentioned the Committee know nothing. No claims in their behalf have been presented. But since the award of the Commissioners three different cases have occurred, coming under the head of "Disappointed Claimants." The disposition of these is mentioned at the end of this Report.[1] It does not seem advisable that the fund should be kept to meet such applications. The awards of the Commissioners have been approved by our Minister in China, and the proceedings closed. If they were opened in the case of the Neva, it was because the claimants there had not been heard in China. It is not supposed that any other occasion can arise to open these proceedings. The fund in question cannot be regarded as a charity or largess for the gratification of "disappointed claimants," nor would it be proper for the United States to play such a generous part at the expense of China.

[1] Appendix (B).

Our country has no house for its legation at Peking or for its consulates in other places, nor does it possess any buildings in China which it might use as court-house or jail; and latterly there has been a strong disposition to apply this fund in this direction. Mr. Seward seems to have inclined this way, as appears from his Report to Congress,[1] and Mr. Fish also, as appears from his Report to Congress.[2] But this disposition proceeds on the admission that the fund differs materially from other moneys of the United States, — that, if it does not belong to China, it bears the Chinese earmark so strongly that it cannot be treated as belonging to our national assets. In point of fact, all attempts to cover it into the Treasury have proved unsuccessful.

Petitions from opposite quarters with regard to the disposition of the fund attest a prevailing interest.

At a meeting of citizens in New York, March 11, 1870, a distinguished committee was appointed, with Isaac Ferris, Chancellor of the University, as chairman, with whom as associates were William E. Dodge, President of the Chamber of Commerce, Frederick S. Winston, E. D. Morgan, E. C. Benedict, A. A. Low, John C. Green, James H. Taft, Stewart Brown, and William P. Jones, many of them having large interests in China, who adopted resolutions on this subject to be forwarded to Congress. The first resolution declares, —

"That this Committee is of opinion that the surplus of the Indemnity Fund received from the Chinese under the Convention of 1858, referred to in the Annual Message of President Buchanan to the Second Session of the Thirty-Sixth Congress, and of President Lincoln to the Second Ses-

[1] Executive Documents, 40th Cong. 3d Sess., H. of R., No. 29, p. 4.
[2] Executive Documents, 41st Cong. 2d Sess., Senate, No. 58, p. 3.

sion of the Thirty-Seventh Congress, with the accumulation thereon, *certainly does belong in equity to the Chinese Government*, as the Presidents therein declare, and *should be returned to it.*"

The Committee then proceed to say, that, if such surplus shall be declined by China, it should be expended, according to the recommendation of Mr. Burlingame, in founding a literary institution for the equal benefit of Chinese and Americans.

Chicago responded to New York. At a meeting of citizens March 31st, another committee was organized, with R. B. Mason, the Mayor, as chairman, — and among the members were William Bross, Lieutenant-Governor of Illinois, Thomas Drummond, Judge of the United States Circuit Court, James E. McLean, Collector of Customs, N. S. Davis, Professor of Surgery in the Medical College, Samuel M. Wiseman, President of the First National Bank, J. C. Burroughs, President of the University of Chicago, and E. D. Haven, President of the Northwestern University, with others, — and adopted resolutions, where, after approving those of New York, they declare, —

"That it seems to us eminently fitting and fortunate that this money, *which distinguished representatives of the United States have asserted belongs in equity to the Chinese Government*, though that government is disposed to waive its right to it, should be employed in some way to the common advantage and honor of both nations."

The committee then proceed to resolve further, —

"That in view of the impression conveyed by Secretary Seward's Report to the Third Session of the Fortieth Congress, that the Chinese authorities are unwilling to receive

this money, this Committee respectfully memorializes Congress to cover it into the United States Treasury as *a special fund, to be returned to the Chinese Treasury*, or hereafter appropriated to the establishment of the proposed institution of learning at Peking, *as the Chinese Government may elect.*"

These two weighty committees concur in recognizing the equity of China, if not her proprietorship, in this fund. If it be true that the surplus belongs to China, or that it is hers in equity, it will be difficult to defend any proposition to return the amount indirectly, as in a college or buildings for the accommodation of the United States on Chinese soil. If returned at all, it must be directly, and in the form of money. What right have we to determine how to expend in China or for China that which is hers? To do so would not be generous, even if it were just. It would be ostentatious, and might be offensive. It would assume that we can employ the money of China, even in China, for her own benefit, better than she can herself. At all events, it would recognize an undefined title in China, to which we deferred.

THE CHINESE HAVE NOT REFUSED TO RECEIVE IT.

But it cannot be disguised, that, when the two Secretaries of State concurred in the idea of appropriating this fund to the erection of buildings, also when Mr. Burlingame made his earnest effort for its appropriation to a college at Peking, and when two successive Presidents invited Congress to consider what should be done with it, there was an impression not only that the Chinese would not allow the surplus to be returned, but that they had peremptorily declined to entertain the

proposition. Such was the impression when the attention of the Committee was first called to this fund, now many years ago. And it cannot be doubted that this impression has exercised an influence in preventing frank and explicit action on the question, according to the obvious requirement of justice.

The Committee have endeavored to ascertain the ground for the statement that the Chinese had refused to receive the surplus. It seems, on inquiry, to be a report or rumor started nobody knows precisely how or when. Thus we find Mr. Seward saying, in his Report of February 18, 1868: —

"It appears, that, when it was ascertained that this surplus would remain, the return of it to the Chinese Government was proposed, but that they declined to accept it."[1]

And Mr. Fish, in a similar Report, under date of March 10, 1870, says likewise: —

"The Secretary of State is informed, that, after the awards were completed, and it was definitely known that there would be a surplus, Mr. Burlingame informally proposed to return whatever should be left. The Chinese, however, did not seem disposed to accept it."[2]

But these distinguished Secretaries do not adduce any authority for their assertion; nor does careful search at the State Department disclose any dispatch or record sustaining or justifying it. On this point the Committee are confident. No instruction was ever given to any Minister authorizing him to tender a return of the surplus, or even to sound the Chinese Government on the question of receiving it, if tendered. In fact, no

[1] Executive Documents, 40th Cong. 3d Sess., H. of R., No. 29, p. 3.
[2] Executive Documents, 41st Cong. 2d Sess., Senate, No. 58, p. 3.

power exists in the State Department to authorize such a tender. Such an act could proceed only from Congress, which has never acted on the subject.

The Committee, therefore, dismiss the assumption that there has been any tender to the Chinese, or any refusal on their part, whether formal or informal, and they approach the question simply on its merits.

DUTY TO CHINA.

Had this question arisen in our relations with a European power, it would be only according to an important precedent, if we forbore to open the transaction. By two separate conventions, one in 1815 and the other in 1818, France paid to England a large sum, amounting to one hundred and thirty million francs, on account of English claimants, and the English Government undertook to dispose of all their claims, as the United States undertook to dispose of all the claims of American citizens in China. In 1852 Lord Lyndhurst brought the subject before the House of Lords, when he stated that there was "an unapplied balance of upwards of £200,000";[1] and in 1861 Mr. Denman did the same in the House of Commons, when he said, that, "after all claims had been satisfied, there still remained a sum of £200,000 not in any way to be considered due under the convention."[2] Nothing was said of returning this surplus to France. The Baron de Bode, a renowned litigant, made an ineffectual attempt to obtain something out of it on account of losses in France, although his case was ar-

[1] Speech, June 11, 1852: Hansard's Parliamentary Debates, 3d Ser., Vol. CXXII. col. 494.

[2] Speech, June 4, 1861: Ibid., Vol. CLXIII. col. 579.

gued with consummate ability in the English courts, and awakened the eloquence of Lord Lyndhurst in the House of Lords. In an appeal for justice, the Baron declares that out of the amount received by England, only 67,071,301 francs had been paid to claimants, and he insists that the Crown should account to the claimants, *or to France*, for the unexpended surplus, — thus recognizing an eventual proprietorship in France, after the satisfaction of the claims.[1] What has been done with this surplus since is not known.

But while the importance of doing equity always is a paramount duty, the Committee feel that there is something in the negotiation under which this surplus accrued which should make us particularly careful lest we fail to do equity. It will be observed that the sum received from China was on account of certain claims of our citizens, and that it was in no sense a national indemnity; in other words, the consideration was specific, and not general in character. The preamble of the convention recites that it was entered into "for the satisfaction of claims of American citizens," — thus expressly excluding any other consideration. With regard to these claims the Chinese had little or no information, while our Minister saw clearly, that, with the disallowance of those doubtful, which he regarded as probable, there would be a surplus. His words were: "If they be recognized, the fund will be exhausted. If they be disallowed, there will be a surplus at the disposition of the Government."[2] The actual surplus was about thirty-

[1] Mémoire à consulter et Consultation concernant l'Indemnité due au Baron de Bode, Londres, 1845. De Bode *vs.* The Queen, 3 House of Lords Cases, 449. Reports from Select Committees of House of Lords in 1852 and House of Commons in 1861 on Petitions of the Baron de Bode: Parliamentary Papers, 1860, Vol. XXII. No. 482, and 1861, Vol. XI. No. 502.

[2] Mr. Reed to Mr. Cass, November 10, 1858: See *ante*, p. 119.

three and a third per cent. of the amount stipulated, and about fifty per cent. of the amount awarded to claimants. The considerableness of this sum is another reason why we should hesitate to take advantage of a transaction where we were so situated as to be the best informed on the matter in issue. If we did not know everything bearing on it, we knew much more than the Chinese.

In fact, the Chinese acted in the dark; and here we have the testimony of Mr. Williams, the interpreter of our Minister in the negotiation, and still an honored servant of the Government, who has said in a dispatch: "No list was presented to the Chinese by Mr. Reed"; and again, "The United States Government was made the sole judge of the justice of the claims"; and then again, "In reality, they [the Chinese] paid the demands made upon them by the English and French Ministers, as well as the American, *under pressure*."[1] If this were so, — and one of our own officers is the witness, — the equity of the Chinese becomes more apparent. Obviously, they were unable to examine the claims, and did not pretend to examine them. Everything was left to the United States. And this was done while the ancient empire was torn by civil war, aggravated by the menacing attitudes of England and France. It is not too much to say that it was done "under pressure." According to well-known authorities, a deed made under *duress* may be set aside; and this rule of jurisprudence shows a just sensitiveness with regard to that absolute freedom which is essential to the life of a contract. Such a rule, if applied in the intercourse of nations, would invalidate most of those conventions after

[1] Mr. Williams to Mr. Burlingame, October 1, 1863: Diplomatic Correspondence, 1865-6, Part 2, pp. 411-12: Executive Documents, 39th Cong. 1st Sess., H. of R., No. 1.

war or menace by which one power has assumed obligations to another, and, indeed, would strike at war and menace as modes of pursuing a claim. In the present case the validity of the convention is not called in question; but, since we assert no right of conquest, it is properly suggested that the original pressure upon China, attested by one of our own functionaries, peculiarly intimate with the transaction, is an additional reason why we should decline to take advantage of the convention beyond the just satisfaction of our citizens.

And this brings the Committee to the conclusion, that, in equity, this fund does not belong to us. Whatever may be our technical title, in conscience the money is not ours.

In returning to China the fund in question and its accretions, the United States will relieve themselves of an embarrassing trust, while they render unto the distant Cæsar what is his own, and set an example by which republican institutions will be elevated. The question of its application, which has occupied the attention of successive Presidents, which has been presented to successive Congresses, and is still undecided, will be at rest. Schemes for the bestowal of the fund in such a way as to harmonize our sense of justice with our obligations to China, if not with Chinese proprietorship, will cease. There will be nothing for "disappointed claimants" to pursue. China will receive her own, — if with astonishment, it will be only because nations have so rarely lived according to the Golden Rule. Such an act cannot be otherwise than honorable to the United States. It will be a victory in a new field, making us first in a new order of conquerors. China, with infinite resources, will be more than ever open to

American enterprise. Thus, while doing right, shall we benefit ourselves. So is justice to others the way to national advantage. But whatever this advantage, it must not be forgotten that the first inducement is the essential equity of the case.

The measure now proposed will be valuable in proportion as it is spontaneous. Thus far China has made no demand, or suggestion even. A year hence the venerable Empire may appear before the youthful Republic with a formal claim. The very fact that we deliberate about this fund will spread the tidings of its existence. Better anticipate a demand than wait and at last yield an ungracious compliance, urged by a foreign plenipotentiary in the service of the ancient government whose money is now in our hands.

The Report was accompanied by the following Joint Resolution, which was read and passed to a second reading: —

JOINT RESOLUTION, DIRECTING THE RETURN OF CERTAIN MONEYS TO THE GOVERNMENT OF CHINA.

Whereas on the 8th day of November, 1858, a convention was entered into between the United States and China for the settlement of claims against the latter by citizens of the United States, and in pursuance thereof an amount of five hundred thousand taels, making seven hundred thousand dollars in gold, or thereabouts, was paid by China, out of which sum, after the satisfaction of all claims exhibited by citizens of the United States, there remains in the hands of the United States an unappropriated surplus, amounting, with interest and exchange, to four hundred thousand dollars in currency, or thereabouts, which sum is now in custody of the Department of State: Now, therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the

unappropriated surplus now in the hands of the United States, under the convention with China, of November 8, 1858, be refunded to the Government of China; and it shall be the duty of the President of the United States to see that this is carried into effect.

APPENDIX.

(A). Page 121.

LETTER OF MR. SEWARD TO MR. SUMNER.

DEPARTMENT OF STATE, WASHINGTON, June 21, 1862.

SIR, — I duly received your letter of the 3d instant, accompanied by a copy of the resolution of the Senate of the 2d instant, referring to the consideration of the Committee on Foreign Relations of that part of the President's Annual Message to Congress, of December last, which adverts to the difference between the amount stipulated to be paid by China in satisfaction of claims of United States citizens and the gross amount of the awards of the Commissioners appointed pursuant to the Act of Congress of the 3d of March, 1859.

In compliance with your request for information and suggestion upon the subject, I have the honor to communicate a copy of the Convention, a copy of the Act to carry it into effect, a copy of all the correspondence on record or on file in the Department touching the matter, and all the original papers relating to the proceedings of the Commissioners. It is desirable that great care should be taken of these last, and that they should be returned to the Department as soon as the subject shall have been disposed of.

The circumstance of the complaints against the Chinese, which it was the purpose of the convention to adjust, having

arisen in a peculiar region and among a singular people, probably suggested the appointment of Commissioners resident on the spot, who were familiar with the scene of their duties. It is understood, therefore, that, upon the recommendation of Mr. Reed, the Minister who concluded the convention, Mr. Charles W. Bradley, who was United States Consul at Ningpo, and Mr. Oliver E. Roberts, who had acted in a similar capacity elsewhere in China, and both of whom had long resided in that country, were appointed Commissioners. The business-like manner in which they discharged their trust is manifest from the records of the Commission.

With regard to the disposition of the surplus in question, three methods suggest themselves.

1. The refunding of the whole amount to the Chinese.

2. Appropriating the whole or a part of it in payment of claims supposed to have been unjustly rejected by the Commissioners, and of others in which the amounts allowed may not have been satisfactory to the claimants.

3. Retaining the whole surplus in the Treasury of the United States, or causing it to be invested toward indemnifying citizens who may hereafter be injured by the Chinese authorities.

I will abstain from any remarks on the first head.

There is but one claim, that of Messrs. Nott & Co., disallowed by the Commissioners, — in which case application has been made for a part of the surplus referred to. The claimants allege that their agents in China were too far from Macao, the place where the Commissioners met, to allow them to appeal to the Minister in season. The Committee will be enabled to judge of the sufficiency of this reason for considering the claim in that case an open one.

The award in the Caldera case is the only one complained of as having been inadequate. As all the facts and arguments in the case are embraced in the accompanying papers, the Committee can form their own opinion upon this point.

The Minister who concluded the convention pursued a judicious course in requiring from the Chinese a sum in gross adequate to meet the sums claimed in the several cases. This, however, can hardly be allowed to imply, that, even in his opinion, the claimants in those cases ought to receive the amounts which severally they might expect.

Congress made it the duty of the Commissioners, by an investigation judicial in its character, to ascertain the amounts justly due; and if the claimants should be dissatisfied with the decisions of the Commissioners, an appeal to the Minister was allowed, whose decision was expected to be final.

The expediency of sanctioning a review of decisions of the Commissioners or arbiter may be deemed questionable. They were all of high character, peculiarly qualified for the trust conferred upon them. It is for Congress to consider the conveniences and inconveniences of such a precedent, when the Government, in all its branches, may be considered to have already fulfilled its duty to the claimants, collectively and individually.

The whole subject is one of a purely legislative character, affecting a fund which, although it came into the Treasury in a peculiar manner, seems to me to belong to the United States. This Department has no authority to inquire whether there are equities existing on the part of any of our citizens which Congress ought to consult in directing the disposition of the fund. If Congress should impose any inquiry of that nature upon the Department, it would undertake the performance of it cheerfully and with a purpose only to consult justice and the public advantage. But the Department sees no ground for recommending such a measure in the present case.

I have the honor to be, Sir, your very obedient servant,

WILLIAM H. SEWARD.

Hon. CHARLES SUMNER,
Chairman of the Committee on Foreign Relations,
United States Senate.

(B). Page 454.

CLAIMS SINCE THE AWARD.

It remains to speak of claims which have been brought forward or renewed since the awards were made.

One of these is that of Matthew Rooney, master of the bark Caldera, which had been presented to the Commissioners, but was not considered by them, in the absence of proof of citizenship. In 1864 his representatives produced to Mr. Burlingame evidence on this head, and the latter directed that he should be paid in the same manner and proportion as other persons interested in the same class of claims had been paid by order of Mr. Ward, our Minister at Peking.[1]

Mr. Burlingame says, in his dispatch reporting the action which he had taken in this matter: "There is no other demand that can ever come up for payment out of this Indemnity Fund, which has not been examined and decided."[2]

Other claims have, however, been brought to notice. Some of these are known as the Caldera claims; another is the Neva or Nott & Co.'s claim.

The Caldera was a Chilian bark. On the 5th October, 1854, she sailed from Hong-Kong for San Francisco. During the ensuing night she encountered a storm, by which she was so injured as to be obliged to seek an anchorage. This she found, on the 7th October, between islands lying off the Chinese coast. Here she was attacked and plundered by successive piratical bands. The captain escaped and made his way to Hong-Kong, when, upon his information, steps were

[1] Mr. Burlingame to Mr. Richardson, September 3, 1864, — Claims against China, p. 211: Executive Documents, 40th Cong. 3d Sess., H. of R., No. 29.

[2] Mr. Burlingame to Mr. Seward, May, 1865, — Diplomatic Correspondence, 1865-6, Part 2, p. 442: Executive Documents, 39th Cong. 1st Sess., H. of R., No. 1.

taken to recover the property and punish the pirates. A small portion of the cargo was found, and summary justice was inflicted upon such of the pirates as were captured.

The master of the Caldera was an American. An American firm were shippers by her, and various American insurance offices had taken risks upon the hull of the vessel and the larger portion of her cargo. These all appealed to Mr. McLane, then the chief diplomatic officer of the United States in China, with a view to secure indemnity. Mr. McLane declined to take action, declaring that our treaty offered "no basis whatever on which to make a claim against the Chinese Government,"[1] and referred the subject to Mr. Marcy, then Secretary of State. The latter responded, under date of October 5, 1855, "that the parties injured were entitled to indemnification from the Government of China, if not specially by treaty, at least by general principles of international right and obligation."[2] The same matter forms the subject of a dispatch from Mr. Cass, Secretary of State, to Mr. Ward, dated May 5, 1859, in which, after declaring that "the decision of the case will rest with the Commissioners and yourself," and detailing certain allegations made to him by the claimants, who appear to have been very active, he says: "If facts of such a nature be proved, the responsibility of the Chinese Government and its duty to make indemnity would seem to be fixed, according to the treaty, as well as according to the Law of Nations."[3]

The matter was brought before the Commissioners in 1859, and a patient hearing seems to have been given by them, the result of which was a disagreement between them. Both rendered elaborate opinions: one adjudging that no portion of the claims should be allowed; the other, an opposite view, and he proceeded to assess the damages sustained by

[1] Claims against China, p. 173: Executive Documents, 40th Cong. 3d Sess., H. of R., No. 29.

[2] Ibid., p. 10.

[3] Ibid., pp. 9, 10.

the claimants. These he estimated at forty per cent. of their claim, holding that the vessel and her cargo had been injured by the storm to the extent of sixty per cent. of their value. The case then went before Mr. Ward, whose conclusion was expressed in the following words: —

"Under the instructions of Mr. Marcy, thus reaffirmed by Mr. Cass, my duty may be discharged by ascertaining, as far as possible, what have been 'the actual losses of our citizens.' Satisfied with the award of Mr. Roberts on this point, I have approved the same, and ordered the amounts awarded by him to be paid to the respective claimants."[1]

The amounts so paid exceeded $54,000 in coin. This was received by the several claimants, and it does not appear that they protested against the awards. Some of them were, however, dissatisfied, and in 1863 addressed Mr. Burlingame, setting forth their views, and asking him to favor their purpose for a rehearing. Mr. Burlingame, as will be seen on reference to his dispatch of October 5, 1863,[2] entered on a thorough examination of their statements, and arrived at the conclusion that the awards ought not to be disturbed, using strong language in this sense.

The Neva was a British schooner. Messrs. Nott & Co. were American merchants, residing at Hong-Kong. On the 16th October, 1857, they shipped by the Neva, then bound for the port of Foo-chow, five packages containing twenty thousand Mexican dollars. The vessel sailed at 3 o'clock P.M. of the 17th, and the same evening, while at anchor a short distance beyond the limits of the port of Hong-Kong, five Chinese came alongside and requested passage to Foo-

[1] Claims against China, p. 13; see also pp. 172-182: Executive Documents, 40th Cong. 3d Sess., H. of R., No. 29.

[2] Mr. Burlingame to Mr. Seward, — Diplomatic Correspondence, 1865-6, Part 2, p. 406: Executive Documents, 39th Cong. 1st Sess., H. of R., No. 1.

chow, which was granted. At 11 o'clock that night these Chinese and the Chinese members of the crew took possession of the vessel; and having murdered the master and some of the crew and secured the rest, they broke into the hold, seized four of the packages of silver and removed them to the shore. The efforts of Messrs. Nott & Co. to recover the treasure were unsuccessful; and finally, the firm having ceased to exist, the agent representing their interests placed the claim before the Commissioners, who rejected it. Correspondence with the State Department ensued, and in 1869 the representatives of the firm appeared before Congress, declaring that their agent was absent from the South of China, where the Commissioners held their sittings, at the time when the awards were made, and that they had then, innocently, been deprived of their right to appeal from them to the Minister. The Attorney-General was directed by Congress to examine their claim, and, if in his judgment it was valid, he was empowered to award its payment out of the Indemnity Fund. The Attorney-General decided in favor of the claimants, and directed payment of a certain sum in gold. Mr. Washburne, then Secretary of State, held that he was not authorized to make the payment in any other than current funds of the United States. From this ruling the claimants have lately appealed to the Court of Claims, which has decided that the award of the Attorney-General should be complied with. This will make a small deduction from the fund.

TAX ON BOOKS.

Remarks in the Senate, June 30, 1870.

A bill "to reduce internal taxes and for other purposes" being under consideration, Mr. Sumner moved to add to the free list of imports "books in foreign or dead languages, of which no editions are printed in the United States." In conclusion of a running debate relative to the application of this amendment, Mr. Sumner said: —

SENATORS seem to argue that this is applicable exclusively, or almost exclusively, to school-books; but we are all aware that outside of school-books there are works of literature, of instruction generally, of travels, of romance if you please, interesting in families, and which thousands who are familiar, for instance, with the German language, would be glad to have. For example, here is the large German population of our country, — is it not right that they should have the means of adding to those innocent recreations that are found in reading? We shall be doing a real service to them, if we enable them to import books that they lack, cheap, — not merely school-books, but I mean the large class of books outside of school-books. I see no possible objection to this provision, while I see much in its favor.

I have alluded to the large German population. There is also a very considerable Italian population. Some one told me the other day, who professed to know, that there are three hundred thousand Italians in our country. That seemed to me very large; but it was an estimate made by an Italian. Now should not those Italians be

enabled under our tariff law to import books from their own country, of literature or of science, without paying a tax? It seems to me that we owe that gratification to them, when they come here to join their fortunes to ours. And so you may go through the whole list of European nations. Take Spaniards; take Swedes; take Danes: I know not why their books should be taxed, when they come to them from across the sea. It seems to me that the tax is inhospitable; it is churlish; and of course it is a tax on knowledge.

The amendment was rejected.

Mr. Sumner then moved to add, — "Also books with illustrations relating to the sciences and the arts," — saying: —

On that I wish to read a remark of an intelligent person not belonging to the class that the Senator from Ohio characterized as rich men who import books, but one who imports books because he needs them. Remarking on the works of science and the arts, including books on architecture and the fine arts, which now pay very heavily at the custom-house, he says: —

"Books of this kind are too costly, and the sale of them is too limited, for them to be reprinted. To add to their cost by a heavy duty is an outrage, for it is depriving men of small means of the tools whereby they live. It is a queer kind of protection of home industry which seeks to keep out of the country by taxation the knowledge which makes industry valuable."

Now I put it to Senators whether any injurious consequence can result from allowing these books to come in free. The duty that you receive from them is small; it is very little for you to give up; but in giving facilities to the importation of such books you contribute to

knowledge. I am sure of it. I have no motive in making this motion, or this succession of motions, except my anxiety for the extension of knowledge in this Republic. I am for free schools; I am for free knowledge everywhere; and I wish to beat down all the obstructions possible, and one of these is the tax which we impose in our tariff. I hope there can be no question on that amendment.

The vote being taken by yeas and nays resulted, Yeas 14, Nays 26; so this amendment was likewise rejected.

NATURALIZATION LAWS: NO DISCRIMINATION ON ACCOUNT OF COLOR.

REMARKS IN THE SENATE, JULY 2 AND 4, 1870.

JULY 2, 1870, the Senate having under consideration a bill "to amend the Naturalization Laws and to punish crimes against the same," which had been reported from the Committee on the Judiciary as a substitute for one from the House, — the particular object of both bills being the prevention of the election frauds perpetrated through the instrumentality of unnaturalized or illegally naturalized aliens, — Mr. Sumner moved to add, as a new section, a bill previously introduced by himself, and reported favorably from the same Committee, providing —

"That all Acts of Congress relating to naturalization be, and the same are hereby, amended by striking out the word 'white' wherever it occurs, so that in naturalization there shall be no distinction of race or color."

The motion was strenuously resisted, as ill-timed and out of place, — Mr. Edmunds, of the Judiciary Committee, remarking, that, although he reported the bill in question, and believed in it so far as he now understood, yet, under existing circumstances, he should vote against it as an amendment to the pending bill.

Mr. Sumner briefly responded: —

MR. PRESIDENT, — The remark of the Senator from Vermont [Mr. EDMUNDS] renders it necessary for me to make a brief statement. Some time during the last Congress I had the honor of introducing a bill to strike the word "white" from our Naturalization Laws. I tried to have it put on its passage. I was resisted then by the Senator from Vermont, who moved its reference to the Committee on the Judiciary. There it remained until near the expiration of that Con-

gress, and was then reported adversely, too late for further action. During the third week of the present Congress, now more than a year ago, I introduced the same bill again. It remained in the room of the Judiciary Committee from March, 1869, until very recently, when it was reported favorably.

Such, Sir, have been my efforts to bring the Senate to a vote on this question. Never till this moment has it been in my power to have a vote on a question which I deem of vital importance. I have here on my table letters from different States, — from California, from Florida, from Virginia, — all showing a considerable number of colored persons — shall I say of African blood? — aliens under our laws, who cannot be naturalized on account of that word "white."

Now, Sir, here is a practical grievance which needs a remedy. This is the first time that I have been able to obtain a vote upon it; and I should be unworthy of my seat here, if, because Senators rise and say they will vote it down on the ground that it is out of place, I should hesitate to persevere. Senators will vote as they please; I shall vote for it. The Senator from Illinois [Mr. TRUMBULL] properly says it is in place. Never was there a bill to which it was more germane. You are now revising the naturalization system, and I propose to strike out from that system a requirement disgraceful to this country and to this age. I propose to bring our system into harmony with the Declaration of Independence and the Constitution of the United States. The word "white" cannot be found in either of these two great title-deeds of this Republic. How can you place it in your statutes?

The motion was lost, — Yeas 22, Nays 23.

Subsequently, on the same day, the pending bill was itself defeated, the original bill being preferred, — and the latter now coming up, Mr. Sumner renewed his amendment, remarking, —

Now I have to say that that is worth all the rest of the bill put together. That is a section that is pure gold. It will do more for the character and honor and good name of this Republic than all the rest of the bill. I am for the rest of the bill, but this is better than all the rest. Now I ask for the yeas and nays.

After further debate the amendment prevailed, — Yeas 27, Nays 22; whereupon Mr. Williams, of Oregon, moved the following addition: —

"*Provided*, That nothing in this Act shall be construed to authorize the naturalization of persons born in the Chinese Empire."

July 4th, the debate on the House bill being resumed, Mr. Conkling, of New York, criticized sharply the course of Mr. Sumner in pressing his amendment, to the peril of the bill, — denominating it "an act of self-will in defeating the purpose of a great majority of this body to consummate a simple, practical, and urgent measure." Mr. Sumner replied as follows: —

Mr. President, — The Senator from New York has chosen to make an assault on me to-day, because, in the discharge of my duties, I do not see my duty as he sees his duty, — because on this Fourth day of July I choose to stand by the Declaration of our fathers. For that I am impeached by the Senator from New York.

He presses me to postpone this proposition until to-morrow. When, Sir, will that to-morrow come? Can the Senator tell? Is he adept enough to indicate the day, or even the week, when a vote can be had on it? The Senator knows, he must know, that, if not voted on now, it will fail during the present session. The Senator shakes his head; but he knows too much of the business now before the Senate not to see that I am

right. What chance is there of getting before the Senate the original bill containing this proposition? Why, Sir, the bill was introduced first on the 19th of July, 1867, now three years ago. I tried then to put it on its passage, deeming it so simple that there was no need of a reference to any committee. The Senator from Vermont [Mr. EDMUNDS] prevailed against me by insisting that it should be referred to the Committee on the Judiciary. It was referred, and there it slumbered until that Congress was about to close, thus sleeping the long sleep.

On the 22d of March, 1869, which was in the next Congress, I introduced the same bill again, — I have it before me, — and again it slumbered in the hands of the Judiciary Committee until a few weeks ago, when at last it was reported to the Senate. Then it took its place on the Calendar, with the numerous other bills there, important and unimportant, some very important, all in competition with it.

What chance have I had for a vote upon it? From the 19th of July, 1867, down to this hour, Saturday was the first day I was able to have a vote upon it; and now to-day Senators insist that I shall withdraw it, and postpone the whole question to some "to-morrow," some indefinite, unknown to-morrow.

> "To-morrow, and to-morrow, and to-morrow
> Creeps in this petty pace from day to day,
> To the last syllable of recorded time;
> And all our yesterdays have lighted fools
> The way to dusty death."

Sir, I am not one of those "fools." I will not postpone this question to any "to-morrow." The Senate will do as they please; but, God willing, they shall

have an opportunity to vote on it. Vote as you please, Sir, but the time has come for a vote.

Mr. President, this is not the only bill on the Calendar which concerns the rights of colored persons. There are two on the Calendar, and one now before the Judiciary Committee. The first on the Calendar was reported by me from the Committee on the District of Columbia as long ago as February 8, 1870, and is entitled "A bill to repeal the charter of the Medical Society of the District of Columbia." That society has been guilty of an act which I have no hesitation, on all the testimony before us, in declaring to be one of infamy, for which they deserve the promptest judgment of Congress, which shall take from them the power to inflict indignity on their fellow-man. Enjoying a charter from Congress which dedicates them and sets them apart to the cultivation of medical science, they have undertaken to exclude persons otherwise competent simply on account of color. They have set up a test of membership founded on color. The evidence is irrefutable; and yet I have been unable to bring the Senate to a vote on that bill; and meanwhile colored physicians in this District are subjected to the indignity of exclusion from the Society, and thus are shut out from opportunities of medical instruction.

There is another bill, which I reported from the Committee on the District of Columbia May 6, 1870, entitled "A bill to secure equal rights in the public schools of Washington and Georgetown." That, also, I have tried in vain to press upon the Senate. There is, then, another bill, which I had the honor of introducing May 13, 1870, entitled "A bill supplementary to an Act entitled 'An Act to protect all citizens of the United

States in their civil rights, and to furnish the means for their vindication,' passed April 9, 1866." This important bill was duly referred to the Committee on the Judiciary, but I have heard nothing from it since. It slumbers on the table of the Committee.

Of all these measures which concern equal rights, the only one which I have been able to bring before the Senate is that under consideration; and I am now pressed to withdraw it so as to avoid a vote. Why, Sir, again and again in other years have I been pressed in the same way; again and again in other years have Senators spoken to me and of me as the Senator from New York was advised to speak to-day: but it has not been my habit to yield; nor have I been alone, Sir, in such determination. One of the most beautiful instances in parliamentary history, familiar, doubtless, to the Chamber, is that motion of Mr. Buxton in the House of Commons, in 1832, which determined Emancipation. The Ministry professed to be against Slavery; a large number of the House of Commons made the same profession; but they were against declaring it; and when Mr. Buxton gave notice of a motion in favor of immediate emancipation, Ministry, members of the House, and personal friends came to him entreating that he would not press his motion, especially that he would not divide the House. One of his family records in his Memoirs, which I have in my hands, says: —

"He was cruelly beset, and acutely alive to the pain of refusing them, and, as they said, of embarrassing all their measures, and giving their enemies a handle at this tottering moment."[1]

[1] Memoirs of Sir Thomas Fowell Buxton, edited by his Son, (5th edit., London, 1852,) p. 243.

Then it is recorded of his friends in the House: —

"'They hated,' they said, 'dividing against him when their hearts were all for him; it was merely a nominal difference; why should he split hairs? He was sure to be beaten; where was the use of bringing them all into difficulty, and making them vote against him?' He told us that he thought he had a hundred applications of this kind in the course of the evening; in short, nearly every friend he had in the House came to him, and by all considerations of reason and friendship besought him to give way."[1]

On that occasion he wrote to the leader of the House of Commons, Lord Althorp, under date of May 22, 1832, as follows: —

"Allow me, moreover, to remind you, that, however insignificant in myself, I am the representative, on this question, of no mean body in this country, who would be, to an extent of which I believe you have no idea, disappointed and chagrined at the suspension of the question."[2]

Sir, in a humble way I may adopt this language. I, too, am the representative, on this question, of no mean body in this country, who I know would be disappointed and chagrined at the suspension of the question. The English Emancipationist refused to yield; he insisted, according to the language of Parliament, on dividing the House. He was left in a minority, but that vote determined Emancipation; and the Ministry and those personal friends who had advised against his course complimented him upon that firmness which had at last assured the victory.

I doubt if Senators are aware of the practical bearing of this proposition on the Atlantic seaboard, and even

[1] Memoirs, (5th edit.,) p. 245. [2] Ibid., p. 243.

in California. I said on Saturday that I had letters from various parts of the country attesting that there are colored aliens shut out from equal rights by that word "white" in our Naturalization Laws. I did not then read the letters; but as this debate now promises to extend, I deem it my duty to lay some of them before the Senate.

Mr. Sumner here read four letters, — two from Florida, one from California, and another from Virginia.[1]

Such, Sir, is the personal testimony with regard to the importance, I would say the necessity, of this measure. Here are Africans in our country shut out from rights which justly belong to them, simply because Congress continues the word "white" in the Naturalization Laws. These men are humble, but they are none the less worthy of protection. Ay, Sir, it is your duty to protect them. Even if few, you cannot afford to let them suffer wrong; but they are numerous, — in Florida counted by the hundred, and even the thousand.

Strong as this measure is, as an act of justice, whether to many or few, it has another title. Its highest importance is found in its conformity to the requirement of the Declaration of Independence. Sir, this is the Fourth of July, when our fathers together solemnly declared as follows: —

"We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed."

[1] See Congressional Globe, 41st Cong. 2d Sess., Part VI. p. 5155.

The great, the mighty words of this clause are, that these self-evident, unalienable rights belong to "all men." It is "all men," and not a race or color, that are placed under protection of the Declaration; and such was the voice of our fathers on the fourth day of July, 1776. Sir, such was the baptismal vow of this nation. According to this vow, *all men* are created equal and endowed with unalienable rights. But the statutes of the land assert the contrary, — they declaring that only all *white* men are created equal.

Now, Sir, what better thing can you do on this anniversary than to expunge from the statutes that unworthy limitation which dishonors and defiles the original Declaration? It is in your power to make the day more than ever sacred.

How can you hesitate? There are the words. Does any one question the text? Will any one move to amend the text? Will any one insist that hereafter, as these great words are read on our great anniversary, the word "white" shall be inserted to qualify this sublime Declaration? No one will venture such a suggestion. There they are; there they will remain as long as this Republic endures. But if you are not ready to change the original text, you must then change your statutes and bring them into harmony with the text. The word "white," wherever it occurs as a limitation of rights, must disappear. Only in this way can you be consistent with the Declaration.

Senators undertake to disturb us in this judgment by reminding us of the possibility of large numbers swarming from China; but the answer to all this is very obvious and very simple. If the Chinese come here, they will come for citizenship or merely for labor.

If they come for citizenship, then in this desire do they give a pledge of loyalty to our institutions; and where is the peril in such vows? They are peaceful and industrious; how can their citizenship be the occasion of solicitude?

We are told that they are Imperialists; but before they can be citizens they must renounce Imperialism. We are told that they are foreigners in heart; but before they can take part with us they must renounce their foreign character. Therefore do I say, if they come for citizenship, there is no peril, — while, if they come merely for labor, then is all this discussion and all this anxiety supefluous.

Why introduce the topic into debate? Is there a Senator on this floor who will say that from anything done or said by Chinese at this moment there is any reason to fear peril to this Republic? Sir, the greatest peril to this Republic is from disloyalty to its great ideas. Only in this way can peril come. Let us surrender ourselves freely and fearlessly to the principles originally declared. Such is the way of safety. How grand, how beautiful, how sublime is that road to travel! How mean, how dark, how muddy is that other road which has found counsellors to-day! Listening to the speech of the Senator from Nevada [Mr. STEWART], more than once, nay, thrice over, denying the Declaration of Independence, I was reminded of an incident in the Gospels. I have the book from the desk of the Secretary, and now read the pertinent passage: it is in Matthew, chapter twenty-six: —

"Now Peter sat without in the palace: and a damsel came unto him, saying, Thou also wast with Jesus of Galilee.

"But he denied before them all, saying, I know not what thou sayest.

"And when he was gone out into the porch another maid saw him, and said unto them that were there, This fellow was also with Jesus of Nazareth.

"And again he denied with an oath, I do not know the man.

"And after a while came unto him they that stood by, and said to Peter, Surely thou also art one of them; for thy speech bewrayeth thee.

"Then began he to curse and to swear, saying, I know not the man. And immediately the cock crew.

"And Peter remembered the words of Jesus, which said unto him, Before the cock crow thou shalt deny me thrice. And he went out, and wept bitterly."

Sir, thrice has a Senator on this floor denied these great principles of the Declaration of Independence. The time may come when he will weep bitterly.

On a subsequent motion by Mr. Conkling for the reconsideration of the vote on Mr. Sumner's amendment, in consequence of the debate ensuing upon Mr. Williams's proviso, Mr. Sumner said: —

The Senator from Oregon [Mr. Williams], who spoke with earnestness and with argumentative force this morning, before the motion to reconsider was made, has given us reasons why we should not admit the Chinese into the promised fellowship of the Declaration of Independence. I took down some of his precious words, — not many.

He says that my proposition gives to millions of heathens and pagans power to control our institutions. How and when have I made any such proposition? I wish the Senator were here, that I might ask him to ex-

plain this unjustifiable exaggeration. How and when? I make no proposition that I do not find in the institutions of my country. I simply ask you to stand by the Declaration of your fathers. I say nothing about millions of heathens and pagans. I do not ask to give them power or control. Full well do I know that there are no millions of heathens or pagans, and no other millions on this earth, that can control the institutions of this Republic. I know that we stand too firm to suffer from any such contact. Fearlessly we may go forward and welcome all comers, for there can be no harm here; the heathens and pagans do not exist whose coming can disturb our Republic. Worse than any heathen or pagan abroad are those in our midst who are false to our institutions. Millions of heathens and pagans! Whence are they to come? From China? But if they come for citizenship, then, as I said this morning, do they give the pledge of loyalty to the Republic; and how can you fear them, if they enter your courts and with oaths and witnesses ask to be incorporated with our citizenship?

Mr. Stewart. Allow me to ask the Senator if he knows any way in which they can give a pledge that they would understand as binding on them?

Mr. Sumner. Precisely as an Englishman, a Scotchman, an Irishman, a Frenchman, a German, a Swede, a Dane, a Russian, or an African may give a pledge; precisely as the Senator may give a pledge. I have seen the Senator go up to that table and take the oath. The Senator is able. He knows that I know that; but does the Senator suppose that he surpasses in ability many

of the Chinese who might come here? Does the Senator suppose that he feels more keenly the oath which he took at that desk than a Chinese might feel it? I am not speaking of those who may come over here in enforced labor: I join with the Senator in effort to stop that. But I am speaking of the intelligent Chinese, so well and satisfactorily described by the Senator from Missouri [Mr. SCHURZ] this morning, who come voluntarily to join their fortunes with ours. Suppose they come, where is the peril? Sir, it is against common sense to imagine peril from such a source.

The Senator from Missouri has shown you how slowly they must come, according to the natural order of things, — how many decades of years it must take before there will be a million of them, while meantime our population is swelling by unknown millions, so that when we have a solitary million of Chinese we shall have one hundred millions of intelligent Americans treading this continent. And yet the Senator from Nevada is afraid. "What! a soldier, and afraid!" What! a Senator of the United States anxious about a million of Chinese twenty-five or thirty years from now absorbed in that mighty one hundred millions which will then compose our population! The Senator is not in earnest; he cannot be. He was certainly excited in speech, if I may judge from manner; but I really believe, that, in quiet thought reviewing this whole question, he will see that he has hastily taken counsel of fear rather than of reason. Let the Senator put trust in the Republic, and those ideas which are its strength and glory.

The Senator from Oregon wound up another passage by charging me and those who voted with me, particu-

larly myself, with an intention, or with conduct calculated, — I quote now his own words, — "to put the destinies of this nation into the hands of Joss-worshippers." Sir, that is a strong, pungent phrase; but is it true? Who here proposes any such thing? How can Joss-worshippers obtain control of the destinies of this nation? Will any Senator be good enough to tell me? By what hocus-pocus, by what necromancy, by what heathen magic will these Joss-worshippers obtain the great ascendency? Why, Sir, it is to disparage this Republic of ours, it is to belittle it, when you imagine any such thing. The peril exists only in imagination; it is an illusion, not a reality.

Then the Senator proceeded to denounce the Chinese as Imperialists and Pagans. Pagans perhaps, — though Senators who have ever looked into those books which have done so much for the Chinese mind will hesitate before they use harsh language in speaking of their belief. Has any Senator read the system of Confucius, uttered before that of the Saviour, and yet containing truths marvellously in harmony with those which fell from his lips? Throughout this great, populous empire the truths of Confucius have been ever regarded as we regard our Scriptures. They are the lesson for the young and the old, and the rule for government and for rulers; they are full of teachings of virtue. And yet the Chinese are called Pagans! Imperialists they may be while they remain in China, for their ruler is an Emperor. But what are Frenchmen? Are they not Imperialists? What are Russians? Are they not Imperialists? And yet will any Senator rise here and say that a Frenchman, that a Russian, shall not be admitted to naturalization? I take it not. Of course the French-

man, the Russian, and the Chinese will begin by renouncing Imperialism. Therefore it is perfectly idle to say that he is an Imperialist.

The Senator then blazed forth with a fulmination: "Let the people of Massachusetts know that her Senator is willing that Chinese should come to Massachusetts." Those were his words. Well, Sir, I think the people of Massachusetts know their Senator well enough to be assured that he is willing to have justice on this earth. Let the gates of Massachusetts be open always. God forbid that any system of exclusion should find place there, such as I have heard vindicated by the Senator from Oregon to-day! Be just to all men, and all will be safe. The people of Massachusetts are intelligent, generous, truthful; and they long to see the great ideas of the Republic established beyond change. They desire to see the Declaration of Independence no longer a promise, but a living letter. Therefore it is perfectly vain for the Senator to flash to Massachusetts that her Senator here is in favor of justice to the Chinese.

The Senator says again that I am inviting their competition. I make no invitation. That is not my office. What am I, Sir? I have no power, as I have no disposition, to speak any such invitation. My office is entirely different. I stand here on the ancient ways, — those ways that were laid down by the Fathers of the Republic, and where I wish forevermore to keep the Republic sure. I stand by the Declaration of Independence. Sir, these are no ideas of mine; I am speaking nothing from myself; I am only speaking from the history of my country, and from the great Declaration of the Fathers. That is all. I insist that at this day, at this stage of our history, the statutes of

the land shall be brought into harmony with the Constitution of the United States and the Declaration of Independence.

Now, Sir, I say that in those two great title-deeds of the Republic, — and that is the term by which I shall always designate them, — one interpreting the other, there is no single word which can sanction any exclusion on account of race or color.

Here allow me to mention an incident. You may remember, some of you, that during the Rebellion the question occurred, whether a colored officer of the Army was entitled to pay. The question came before President Lincoln, and, at my suggestion, was by him referred to the Attorney-General, at that time Mr. Bates, of Missouri. At the request of President Lincoln, I called on Mr. Bates, to confer with him on his opinion. I did not know then how strongly he inclined to what I will call the side of justice. So I began my conversation interrogatively, when he turned upon me, saying, "Will you allow me to ask you a question?" "Certainly," said I. Said he, "Mr. Senator, is there anything in the Constitution of the United States to prevent a negro from being President?" The question took me by surprise, coming from the Attorney-General. I replied, promptly, "Of course, Mr. Attorney, there is nothing." "Well, you are right; of course there is nothing in the Constitution to prevent a negro from being President; how, then, can there be anything to prevent a negro from being an officer, and receiving his pay as such?" I replied at once to the Attorney-General, that I thought he needed no suggestion from me on that question. I left him; and you may remember the opinion which followed shortly after, in which he affirmed that colored

officers were entitled to pay in the Army of the United States.[1]

Sir, there is nothing in the Constitution of the United States to prevent a negro from being President. On the contrary, that Constitution, interpreted as it must be by the Declaration of Independence, opens the way to all men without distinction of race or color. No, Sir, I am not the author of that doctrine. I had nothing to do with it. I find it, and now simply present it to the Senate. But, presenting it to the Senate, I insist that you shall see to it that the existing statutes are brought into conformity with the text of the Constitution, and with the Declaration of Independence: that is all. Strike out the word "white," which nowhere appears in the Constitution, and which is positively prohibited by the Declaration of Independence. That is what you are to do. So doing, you will complete the work of harmony.

The Senator from Kansas [Mr. POMEROY], in that speech, this evening, which to my mind was in many respects exquisite with most beautiful thought and with unanswerable argument, has taught the Senate, what I have said again and again in debates in this Chamber and in other places, that nothing can be settled which is not right. And so this question will never be settled until it is settled according to the great principles of justice. Vainly you try, you cannot succeed. And now, Sir, I do entreat Senators, — I hope they will pardon me; I mean to say only what it belongs to a Senator to say, — I do entreat Senators not to lose this precious opportunity of completing the harmony of the

[1] Case of Rev. Samuel Harrison, April 23, 1864: Official Opinions of the Attorneys-General, Vol. XI. pp. 37-43.

statutes of the land with the Constitution of the United States and the Declaration of Independence. Only in this way can you have peace. Let us have peace. Sir, I tell you how you may have it. Adopt the amendment which I have proposed, strike out the word "white," and the harmony will begin. The country will straightway accept the result. But reject that amendment, and you open at once the floodgates of controversy. From this time the debate will proceed, and what is said here will find its echoes and reverberations throughout the whole land and be returned to us from the Pacific coast, never to die out until the good cause prevails and all the promises of the Fathers are fulfilled.

Why, Sir, the words of the Declaration of Independence were not uttered in vain. Do you suppose them idle? Do you suppose them mere phrase or generality? No such thing. They are living words, by which this country is solemnly bound, and from which it can never escape until they are all fulfilled. Your statutes cannot contain any limitation which inflicts an indignity upon any portion of the human family.

Therefore do I entreat you, Senators, do not lose this precious opportunity. It comes to you now unexpectedly, perhaps; but what is there in life more golden than opportunity, whether to country, to community, or to individuals? It is what each of us covets, as he treads along the highway of the world. It is what we covet for our country. Here, Sir, you have golden opportunity. Use it. Use it wisely; use it bravely; use it so that you will secure peace, harmony, and reconciliation. Beautiful words! All these are within your power, if you now let it be known that you will stand by the Declaration to the end. You cannot suffer,

there can be no peril, no harm from any such dedication, — nothing but gain. All our institutions will be assured in proportion as you respect these great principles. Reconstruction will have new strength, when you show this homage to human nature.

And yet in the face of all this we are now asked to retreat, — to retrace the steps already taken, — to reconsider the vote that has been adopted, — and to confirm in the statutes those words which are there without any sanction in the Constitution, and in defiance of the Declaration of Independence. Sir, I will not believe that the Senate will do any such thing until the vote is recorded. But whatever may be the result, I give notice that I shall not cease my effort, — I shall continue it to the end. I am a soldier for the war; and until I see this great Declaration a living letter, I shall never intermit my endeavors. I shall go forward, and on every possible occasion I shall press the Senate to another vote. But I trust the Senate will not reconsider what they have done, but that they will settle this great question so that it shall never again disturb our debates.

Something I might say here on the "practical." Some Senator to-day has said something about being practical, taking to himself great credit on this account. Of course I who make this effort am not practical! I simply strive to bring the statutes into harmony with the Constitution and the Declaration of Independence; but that is not practical! Our fathers were not practical, when they put forth the great Declaration! Our fathers were not practical, when they established the Constitution without the word "white"! Of course I am not practical, because I humbly strive to imitate the

Fathers! Now, Sir, which is the more practical, — to allow this word to remain, breeding debate, controversy, strife, or at once to strike it out and complete our great work of Reconstruction? This is something to do. Tell me not that it is not practical. Is there anything in the bill that is equally practical? There are provisions, as I said this morning, for the safeguard of naturalization, which I value much; but how small in value, compared with the establishment of that great principle which fixes forevermore the fundamental idea of the Republic! Is not that practical? Why, Sir, the two cannot be compared. Both are important; but the first belongs to the class of policies or expedients, and not of principles. Adopt it, and you will help the machinery of naturalization, which I desire to do. But strike out the word "white" from your statutes, and you will do an act of justice whose influence will be immeasurable. The Republic will be exalted, and all our institutions will have new strength and security.

The motion for reconsideration prevailed, — Yeas 27, Nays 13.

The question now recurring on the adoption of the amendment, Mr. Sumner rose to speak again, — whereupon a debate sprang up as to his right to do so under the rules, finally terminated by the withdrawal of an appeal which had been taken from a decision of the President *pro tempore* affirming such right, when he was allowed to proceed. Beginning with some remarks upon this episode, Mr. Sumner said: —

THE appeal is withdrawn; but I believe I have the floor on the question. We have pending before us the Tax Bill, and during a day perhaps a dozen or twenty propositions are moved on that bill. According to the suggestion of the Senator from New York [Mr. CONKLING], one who had spoken on two of those propositions would be debarred from speaking on any of the others

during that day. As a Senator suggests to me, if a Senator had spoken about salt or tea, then he could not speak on sugar, or the income question, or anything else. I believe the rule of the Senate will not compel us to any such absurdity.

I do not like to take up the time of the Senate; and I should not speak now, except for my desire to bring home to the Senate once more the gravity of the question, and to introduce a new authority, which I had on my table, but which I forgot to use, when I was up before, — I mean the late Abraham Lincoln. He, too, had a great controversy in Illinois with a distinguished representative of the Democratic party (Mr. Douglas) on the Declaration of Independence. Let Mr. Douglas state his position in his own words. He said: —

"I believe that this Government of ours was founded on the white basis. I believe that it was established by white men, by men of European birth, or descended of European races, for the benefit of white men and their posterity in all time to come. I do not believe that it was the design or intention of the signers of the Declaration of Independence or the framers of the Constitution to include negroes, Indians, or other inferior races, with white men, as citizens." [1]

Then, again, in another place, Mr. Douglas said: —

"The Declaration of Independence only included the white people of the United States." [2]

How like what we have heard in this Chamber on Saturday and to-day! Senators have been unconsciously

[1] Speech at Bloomington, Ill., July 16, 1858: Political Debates between Hon. Abraham Lincoln and Hon. Stephen A. Douglas in the Campaign of 1858 in Illinois, (Columbus, 1860,) p. 35.

[2] Speech at Springfield, Ill., July 17, 1858: Political Debates, p. 52.

repeating these exploded arguments of the late Mr. Douglas.

How did Abraham Lincoln answer? In a speech at Springfield, while admitting that negroes are "not our equals in color," this eminent citizen, afterward President, thus spoke for the comprehensive humanity of the Declaration: —

"I adhere to the Declaration of Independence. If Judge Douglas and his friends are not willing to stand by it, let them come up and amend it. Let them make it read that all men are created equal except negroes. Let us have it decided whether the Declaration of Independence in this blessed year of 1858 shall be thus amended. In his construction of the Declaration last year, he said it only meant that Americans in America were equal to Englishmen in England. Then, when I pointed out to him that by that rule he excludes the Germans, the Irish, the Portuguese, and all the other people who have come amongst us since the Revolution, he reconstructs his construction. In his last speech he tells us it meant Europeans. I press him a little further, and ask if it meant to include the Russians in Asia; or does he mean to exclude that vast population from the principles of our Declaration of Independence? I expect ere long he will introduce another amendment to his definition. He is not at all particular. He is satisfied with anything which does not endanger the nationalizing of negro slavery. It may draw white men down, but it must not lift negroes up."[1]

Then, again, in another speech, made at Alton, the future President renewed his testimony as follows: —

"I assert that Judge Douglas and all his friends may search the whole records of the country, and it will be a mat-

[1] Speech at Springfield, Ill., July 17, 1858: Political Debates, p. 63.

ter of great astonishment to me if they shall be able to find that one human being three years ago had ever uttered the astounding sentiment that the term 'all men' in the Declaration did not include the negro. Do not let me be misunderstood. I know that more than three years ago there were men who, finding this assertion constantly in the way of their schemes to bring about the ascendency and perpetuation of Slavery, denied the truth of it. I know that Mr. Calhoun, and all the politicians of his school, denied the truth of the Declaration. I know that it ran along in the mouth of some Southern men for a period of years, ending at last in that shameful, though rather forcible, declaration of Pettit, of Indiana, upon the floor of the United States Senate, that the Declaration of Independence was in that respect 'a self-evident lie,' rather than a self-evident truth. But I say, with a perfect knowledge of all this hawking at the Declaration without directly attacking it, that three years ago there never had lived a man who had ventured to assail it in the sneaking way" —

That is not my language; it is the language of Abraham Lincoln — .

"of pretending to believe it and then asserting it did not include the negro."[1]

Lifted by the great cause in which he was engaged, he appealed to his fellow-countrymen in tones of pathetic eloquence: —

"Think nothing of me," —

said he, afterward martyr, —

"take no thought for the political fate of any man whomsoever, but come back to the truths that are in the Declara-

[1] Speech at Alton, Ill., October 15, 1858: Political Debates, p. 225.

tion of Independence. You may do anything with me you choose, if you will but heed these sacred principles. You may not only defeat me for the Senate, but you may take me and put me to death. While pretending no indifference to earthly honors, I do claim to be actuated in this contest by something higher than an anxiety for office. I charge you to drop every paltry and insignificant thought for any man's success. It is nothing, I am nothing, Judge Douglas is nothing; but do not destroy that immortal emblem of humanity, the Declaration of American Independence."[1]

How apt are these words now! "Do not destroy that immortal emblem of humanity, the Declaration of American Independence."

Then, again, as he was on his way to Washington, stopping at Philadelphia to raise the flag of his country over the Hall of Independence, he uttered these pathetic, though unpremeditated words: —

"All the political sentiments I entertain have been drawn, so far as I have been able to draw them, from the sentiments which originated in, and were given to the world from, this Hall. I have never had a feeling, politically, that did not spring from the sentiments embodied in the Declaration of Independence.

. . . . .

"Now, my friends, can this country be saved upon that basis? If it can, I shall consider myself one of the happiest men in the world, if I can help to save it..... But if this country cannot be saved without giving up that principle, I was about to say I would rather be assassinated on this spot than surrender it."[2]

And yet that is the principle which the Senate is now about to give up, — that principle which Abraham

[1] Crosby's Life of Lincoln, p. 33. [2] Ibid., p. 86.

Lincoln said, rather than give up he would be assassinated on the spot.

Then, after adding that he had not expected to say a word, he repeated the consecration of his life, exclaiming, —

"I have said nothing but what I am willing to live by, and, if it be the pleasure of Almighty God, to die by."[1]

Sir, that is enough.

Mr. Sumner's amendment was rejected, — Yeas 14, Nays 30. At a later stage of the proceedings he renewed it, when it was again rejected, — Yeas 12, Nays 26.

At the same stages, an amendment in the following words, offered by Mr. Warner, of Alabama, —

"*And be it further enacted*, That the Naturalization Laws are hereby extended to aliens of African nativity and to persons of African descent," —

prevailed, first by Yeas 21, Nays 20, and then by Yeas 20, Nays 17, and was adopted. A subsequent amendment, by Mr. Trumbull, of Illinois, further extending these laws "to persons born in the Chinese Empire," was defeated, by Yeas 9, Nays 31. The bill as amended was thereupon passed, — Yeas 33, Nays 8, — Mr. Sumner voting in the affirmative.

[1] Crosby's Life of Lincoln, p. 87.

THE REPUBLICAN PARTY: ITS PAST AND FUTURE WORK.

Speech at a Ratification Meeting in Faneuil Hall, October 15, 1870.

October 15, 1870, the Republicans of Boston met in Faneuil Hall, to ratify the nomination of candidates for State offices. The Hall was filled to its utmost capacity, and Mr. Sumner was announced as President of the meeting. In its report of the proceedings, the "Journal" newspaper of the next day stated that Mr. Sumner, on taking the chair, "was greeted with almost indescribable enthusiasm, and it was some minutes before the audience permitted him to speak." He spoke as follows: —

FELLOW-CITIZENS, — In opening this meeting to-night I am impressed by one thought, which I would, if I could, have uppermost in the minds of the people, so that they could not forget it at the coming election. It is the necessity of constant, incessant, persevering activity in support of Republican principles, and of the party which maintains them. [*Applause.*]

And here let me say that I know no way in which Republican principles can be adequately supported, without supporting the Republican party. [*Applause.*] There is no local issue justifying opposition to the Republican party, which, if it fails to do all that good men desire, yet does more than can be accomplished through any other political organization. Therefore do

I say, Stand by the Republican party. Make it united and vigorous. There must be no hesitation, or listlessness, or desertion. [*Applause.*]

Our majorities in Massachusetts are large, but so are our responsibilities. From the historic character of the Commonwealth, from the position it has occupied in the warfare with Slavery, and from its fame as the home of ideas, we cannot afford to be sluggish or indifferent; nor can we break up into disjointed squads. It is not enough, if we give a majority sufficient to elect our candidates; we must make the majority commanding, controlling, so as to be an example and a power in the land. Massachusetts ideas and interests are to be maintained and advanced, not merely here at home, but in the nation. Besides State officers, we choose at this election members of Congress, and a Legislature which will elect a Senator of the United States. Therefore must we regard our duties to the nation, the first of which is to make Massachusetts the bulwark of the national cause.

I know no good reason why Governor Claflin [*cheers*] should not be reëlected unanimously, or at least without opposition outside the Democratic party, which is against him more from force of habit, I take it, than anything else. As for others, who do not assume the name of Democrats, they can find no excuse of habit in voting against him. Then come the Republican candidates for Congress, who, like the Governor, are entitled to your best support. Faneuil Hall is now thronged with the constituents of Mr. Hooper and Mr. Twichell, [*renewed cheers,*] who know their services, so that my testimony is not needed. I will only say, Fortunate the districts with Representatives having the character,

ability, and business capacity of these gentlemen. In choosing a Legislature you will not forget my colleague, [Mr. WILSON,] with his lifelong devotion to the slave, his hard work against the Rebellion, and his practical labors everywhere. [*Loud and prolonged applause.*]

I would add one further word in reply to those who insist that the Republican party has done its work, and therefore may die. Nothing more absurd. It has done a great and ever-memorable work; but much remains to be done. It has put down a terrible Rebellion waged by Slavery; it has secured equal rights at the ballot-box and in courts without distinction of color; and it has reconstructed the Rebel States on the solid foundation of the Declaration of Independence. [*Applause.*] Besides these heroic achievements, which cannot be forgotten so long as men throb in sympathy with human rights, the Republican party has provided homesteads for the needy; it has built a Pacific Railroad, binding two oceans together; it has by honest payment reduced the enormous national debt entailed by the Rebellion, and at the same time it has reduced taxation. [*Applause.*] If a political party is to be judged by what it has done, then may the Republican party fearlessly ask your votes.

But there is another reason for your continued support. The whole work of Reconstruction and the establishment of Equal Rights is still disputed and assailed by the Democratic party. I might quote resolutions and words of orators showing how they still hold out. Repudiators of the National Debt, they would repudiate all that has been done for the National Union, and for that Equality before the Law which is one of our greatest triumphs and safeguards. [*Cheers.*] This is enough.

Until this new form of Repudiation is extinguished, there is need of the Republican party. So long as anybody assails the Declaration of Independence, the Republican party cannot cease its patriotic labors.

It is foolish to imagine that this great party, consecrated to Human Rights, can die. It will live as long as people cherish those sublime truths declared by our fathers, of which it is the representative and guardian. Its special work will be always to stand by the nation in its unity, and by the people in their rights. [*Applause.*] For such a party there can be no decay. Men whom I now address may grow old, but the Republican party will be ever young. [*Applause.*]

In conclusion, Mr. Sumner introduced GENERAL HAWLEY in the following terms: —

Let me introduce to your notice at this time General Hawley, (or Governor Hawley, if you would rather, for both titles belong to him,) of Connecticut, who has stood by his principles both at home and on the battle-field. [*Applause.*] And now, in introducing him, I am going to ask him to pardon me for a revelation which I believe will not be painful to the audience. I want to give you a passage from a letter addressed to myself by Mr. Hawley, at a time when he was much younger than he is now, bearing date Hartford, May, 1854. It was written on receipt of intelligence by telegraph that the life of a Senator was threatened at Washington by mobs. Mr. Hawley addressed a letter to that Senator, in which, after setting forth the telegram, he said: "Please write to me at once, and say if you need any defenders; if you do, I will be on the spot

early."[1] [*Tremendous applause.*] This was written, Fellow-Citizens, so long ago as 1854; it was seven years before the war; yet General Hawley was then ready to meet the foe. [*Applause.*] Gentlemen, I have the honor of introducing him to you.

[1] For more of the letter in question, and the circumstances which gave occasion to it, see, *ante*, Vol. IV. pp. 151–3.

THE

DUEL BETWEEN FRANCE AND GERMANY,

WITH ITS LESSON TO CIVILIZATION.

LECTURE IN THE MUSIC HALL, BOSTON, OCTOBER 26, 1870.

"When kings make war,
No law betwixt two sovereigns can decide,
But that of arms, where Fortune is the judge,
Soldiers the lawyers, and the Bar the field."

DRYDEN, *Love Triumphant*, Act I. Sc. 1.

LECTURE.

MR. PRESIDENT, — I am to speak of the Duel between France and Germany, with its Lesson to Civilization. In calling the terrible war now waging a Duel, I might content myself with classical authority, *Duellum* being a well-known Latin word for War. The historian Livy makes a Roman declare that affairs are to be settled "by a pure and pious duel";[1] the dramatist Plautus has a character in one of his plays who obtains great riches "by the duelling art,"[2] meaning the art of war; and Horace, the exquisite master of language, hails the age of Augustus with the Temple of Janus closed and "free from duels,"[3] meaning at peace, — for then only was that famous temple shut.

WAR UNDER THE LAW OF NATIONS A DUEL.

BUT no classical authority is needed for this designation. War, as conducted under International Law, between two organized nations, is in all respects a duel, according to the just signification of this word, — differing from that between two individuals only in the number of combatants. The variance is of proportion merely, each nation being an individual who appeals to the sword as Arbiter; and in each case the combat is

1 "Puro pioque duello." — *Historiæ*, Lib. I. cap. 32.
2 "Arte duellica." — *Epidicus*, Act. III. Sc. iv. 14.
3 "Vacuum duellis." — *Carmina*, Lib. IV. xv. 8.

subject to rules constituting a code by which the two parties are bound. For long years before civilization prevailed, the code governing the duel between individuals was as fixed and minute as that which governs the larger duel between nations, and the duel itself was simply a mode of deciding questions between individuals. In presenting this comparison I expose myself to criticism only from those who have not considered this interesting subject in the light of history and of reason. The parallel is complete. Modern war is the duel of the Dark Ages, magnified, amplified, extended so as to embrace nations; nor is it any less a duel because the combat is quickened and sustained by the energies of self-defence, or because, when a champion falls and lies on the ground, he is brutally treated. An authentic instance illustrates such a duel; and I bring before you the very pink of chivalry, the Chevalier Bayard, "the knight without fear and without reproach," who, after combat in a chosen field, succeeded by a feint in driving his weapon four fingers deep into the throat of his adversary, and then, rolling with him, gasping and struggling, on the ground, thrust his dagger into the nostrils of the fallen victim, exclaiming, "Surrender, or you are a dead man!"—a speech which seemed superfluous; for the second cried out, "He is dead already; you have conquered." Then did Bayard, brightest among the Sons of War, drag his dead enemy from the field, crying, "Have I done enough?"[1] Now, because the brave knight saw fit to do these things, the combat was not changed in original character. It was a duel at the

[1] La tresjoyeuse, plaisante et recreative Hystoire, composée par le Loyal Serviteur, des Faiz, Gestes, Triumphes et Prouesses du Bon Chevalier sans Paour et sans Reprouche, le Gentil Seigneur de Bayart: Petitot, Collection des Mémoires relatifs à l'Histoire de France, Tom. XV. pp. 241, 242.

beginning and at the end. Indeed, the brutality with which it closed was the natural incident of a duel. A combat once begun opens the way to violence, and the conqueror too often surrenders to the Evil Spirit, as Bayard in his unworthy barbarism.

In likening war between nations to the duel, I follow not only reason, but authority also. No better lawyer can be named in the long history of the English bar than John Selden, whose learning was equalled only by his large intelligence. In those conversations which under the name of "Table-Talk" continue still to instruct, the wise counsellor, after saying that the Church allowed the duel anciently, and that in the public liturgies there were prayers appointed for duellists to say, keenly inquires, "But whether is this lawful?" And then he answers, "If you grant any war lawful, I make no doubt but to convince it."[1] Selden regarded the simple duel and the larger war as governed by the same rule. Of course the exercise of force in the suppression of rebellion, or in the maintenance of laws, stands on a different principle, being in its nature a constabulary proceeding, which cannot be confounded with the duel. But my object is not to question the lawfulness of war; I would simply present an image, enabling you to see the existing war in its true character.

The duel in its simplest form is between two individuals. In early ages it was known sometimes as the Judicial Combat, and sometimes as Trial by Battle. Not only points of honor, but titles to land, grave questions of law, and even the subtilties of theology, were referred to this arbitrament,[2] — just as now kindred

[1] Table-Talk, ed. Singer, (London, 1856,) p. 47, — *Duel.*

[2] Robertson, History of the Reign of Charles V.: View of the Progress of Society in Europe, Section I. Note XXII.

issues between nations are referred to Trial by Battle; and the early rules governing the duel are reproduced in the Laws of War established by nations to govern the great Trial by Battle. Ascending from the individual to corporations, guilds, villages, towns, counties, provinces, we find that for a long period each of these bodies exercised what was called "the Right of War." The history of France and Germany shows how reluctantly this mode of trial yielded to the forms of reason and order. France, earlier than Germany, ordained "Trial by Proofs," and eliminated the duel from judicial proceedings, this important step being followed by the gradual amalgamation of discordant provinces in the powerful unity of the Nation, — so that Brittany and Normandy, Franche-Comté and Burgundy, Provence and Dauphiny, Gascony and Languedoc, with the rest, became the United States of France, or, if you please, France. In Germany the change was slower; and here the duel exhibits its most curious instances. Not only feudal chiefs, but associations of tradesmen and of domestics sent defiance to each other, and sometimes to whole cities, on pretences trivial as those which have been the occasion of defiance from nation to nation. There still remain to us Declarations of War by a Lord of Frauenstein against the free city of Frankfort, because a young lady of the city refused to dance with his uncle, — by the baker and domestics of the Margrave of Baden against Esslingen, Reutlingen, and other imperial cities, — by the baker of the Count Palatine Louis against the cities of Augsburg, Ulm, and Rottweil, — by the shoe-blacks of the University of Leipsic against the provost and other members, — and by the cook of Eppstein, with his scullions, dairy-maids,

and dish-washers, against Otho, Count of Solms.[1] This prevalence of the duel aroused the Emperor Maximilian, who at the Diet of Worms put forth an ordinance abolishing the right or liberty of Private War, and instituting a Supreme Tribunal for the determination of controversies without appeal to the duel, and the whole long list of duellists, whether corporate or individual, including nobles, bakers, shoe-blacks, and cooks, was brought under its pacific rule. Unhappily the beneficent reform stopped half-way, and here Germany was less fortunate than France. The great provinces were left in the enjoyment of a barbarous independence, with the "right" to fight each other. The duel continued their established arbiter, until at last, in 1815, by the Act of Union constituting the Confederation or United States of Germany, each sovereignty gave up the right of war with its confederates, setting an example to the larger nations. The terms of this important stipulation, marking a stage in German unity, were as follows: —

"The members of the Confederation further bind themselves under no pretext to make war upon one another, or to pursue their differences by force of arms, but to submit them to the Diet." [2]

Better words could not be found for the United States of Europe, in the establishment of that Great Era when the Duel shall cease to be the recognized Arbiter of Nations.

With this exposition, which I hope is not too long, it is easy to see how completely a war between two

[1] Coxe, History of the House of Austria, (London, 1820,) Ch. XIX., Vol. I. p. 378.

[2] Acte pour la Constitution fédérative de l'Allemagne du 8 Juin 1815, Art. 11: Archives Diplomatiques, (Stuttgart et Tubingue, 1821-36,) Vol. IV. p. 15.

nations is a duel, — and, yet further, how essential it is to that assured peace which civilization requires, that the duel, which is no longer tolerated as arbiter between individuals, between towns, between counties, between provinces, should cease to be tolerated as such between nations. Take our own country, for instance. In a controversy between towns, the local law provides a judicial tribunal; so also in a controversy between counties. Ascending still higher, suppose a controversy between two States of our Union; the National Constitution establishes a judicial tribunal, being the Supreme Court of the United States. But at the next stage there is a change. Let the controversy arise between two nations, and the Supreme Law, which is the Law of Nations, establishes, not a judicial tribunal, but the duel, as arbiter. What is true of our country is true of other countries where civilization has a foothold, and especially of France and Germany. The duel, though abolished as arbiter at home, is continued as arbiter abroad. And since it is recognized by International Law and subjected to a code, it is in all respects an Institution. War is an institution sanctioned by International Law, as Slavery, wherever it exists, is an institution sanctioned by Municipal Law. But this institution is nothing but the duel of the Dark Ages, prolonged into this generation, and showing itself in portentous barbarism.

WHY THIS PARALLEL NOW?

THEREFORE am I right, when I call the existing combat between France and Germany a Duel. I beg you to believe that I do this with no idle purpose of illus-

tration or criticism, but because I would prepare the way for a proper comprehension of the remedy to be applied. How can this terrible controversy be adjusted? I see no practical method, which shall reconcile the sensibilities of France with the guaranties due to Germany, short of a radical change in the War System itself. That Security for the Future which Germany may justly exact can be obtained in no way so well as by the disarmament of France, to be followed naturally by the disarmament of other nations, and the substitution of some peaceful tribunal for the existing Trial by Battle. Any dismemberment, or curtailment of territory, will be poor and inadequate; for it will leave behind a perpetual sting. Something better must be done.

SUDDENNESS OF THIS WAR.

Never in history has so great a calamity descended so suddenly upon the Human Family, unless we except the earthquake toppling down cities and submerging a whole coast in a single night. But how small all that has ensued from any such convulsion, compared with the desolation and destruction already produced by this war! From the first murmur to the outbreak was a brief moment of time, as between the flash of lightning and the bursting of the thunder.

At the beginning of July there was peace without suspicion of interruption. The Legislative Body had just discussed a proposition for the reduction of the annual Army Contingent. At Berlin the Parliament was not in session. Count Bismarck was at his country home in Pomerania, the King enjoying himself at Ems. How sudden and unexpected the change will appear

from an illustrative circumstance. M. Prévost-Paradol, of rare talent and unhappy destiny, newly appointed Minister to the United States, embarked at Havre on the 1st of July, and reached Washington on the morning of the 14th of July. He assured me that when he left France there was no talk or thought of war. During his brief summer voyage the whole startling event had begun and culminated. Prince Leopold of Hohenzollern-Sigmaringen being invited to become candidate for the throne of Spain, France promptly sent her defiance to Prussia, followed a few days later by formal Declaration of War. The Minister was oppressed by the grave tidings coming upon him so unprepared, and sought relief in self-slaughter, being the first victim of the war. Everything moved with a rapidity borrowed from the new forces supplied by human invention, and the Gates of War swung wide open.

CHALLENGE TO PRUSSIA.

A FEW incidents exhibit this movement. It was on the 30th of June, while discussing the proposed reduction of the Army, that Émile Ollivier, the Prime-Minister, said openly: "The Government has no kind of disquietude; at no epoch has the maintenance of peace been more assured; on whatever side you look, you see no irritating question under discussion." [1] In the same debate, Garnier-Pagès, the consistent Republican, and now a member of the Provisional Government, after asking, "Why these armaments?" cried out: "Disarm, without waiting for others: this is practical. Let the people be relieved from the taxes which crush them,

[1] Journal Officiel du Soir, 3 Juillet 1870.

and from the heaviest of all, the tax of blood."[1] The candidature of Prince Leopold seems to have become known at Paris on the 5th of July. On the next day the Duc de Gramont, of a family famous in scandalous history, Minister of Foreign Affairs, hurries to the tribune with defiance on his lips. After declaring for the Cabinet that no foreign power could be suffered, by placing one of its princes on the throne of Charles the Fifth, to derange the balance of power in Europe, and put in peril the interests and the honor of France, he concludes by saying, in ominous words: "Strong in your support, Gentlemen, and in that of the nation, we shall know how to do our duty without hesitation and without weakness."[2] This defiance was followed by what is called in the report, "general and prolonged movement, — repeated applause"; and here was the first stage in the duel. Its character was recognized at once in the Chamber. Garnier-Pagès exclaimed, in words worthy of memory: "It is dynastic questions which trouble the peace of Europe. The people have only reason to love and aid each other."[3] Though short, better than many long speeches. Crémieux, an associate in the Provisional Government of 1848, insisted that the utterance of the Minister was "a menace of war"; and Emmanuel Arago, son of the great Republican astronomer and mathematician, said that the Minister "had declared war."[4] These patriotic representatives were not mistaken. The speech made peace difficult, if not impossible. It was a challenge to Prussia.

[1] Journal Officiel du Soir, 2 Juillet 1870.
[2] Ibid., 8 Juillet. [3] Ibid. [4] Ibid.

COMEDY.

EUROPE watched with dismay as the gauntlet was thus rudely flung down, while on this side of the Atlantic, where France and Germany commingle in the enjoyment of our equal citizenship, the interest was intense. Morning and evening the telegraph made us all partakers of the hopes and fears agitating the world. Too soon it was apparent that the exigence of France would not be satisfied, while already her preparations for war were undisguised. At all the naval stations, from Toulon to Cherbourg, the greatest activity prevailed. Marshal MacMahon was recalled from Algeria, and transports were made ready to bring back the troops from that colony.

Meanwhile the candidature of Prince Leopold was renounced by him. But this was not enough. The King of Prussia was asked to promise that it should in no event ever be renewed, — which he declined to do, reserving to himself the liberty of consulting circumstances. This requirement was the more offensive, inasmuch as it was addressed exclusively to Prussia, while nothing was said to Spain, the principal in the business. Then ensued an incident proper for comedy, if it had not become the declared cause of tragedy. The French Ambassador, Count Benedetti, who, on intelligence of the candidature, had followed the King to Ems, his favorite watering-place, and there in successive interviews pressed him to order its withdrawal, now, on its voluntary renunciation, proceeding to urge the new demand, and after an extended conversation, and notwithstanding its decided refusal, seeking, nevertheless, another audience the same day on this subject,

his Majesty, with perfect politeness, sent him word by an adjutant in attendance, that he had no other answer to make than the one already given: and this refusal to receive the Ambassador was promptly communicated by telegraph, for the information especially of the different German governments.[1]

PRETEXT OF THE TELEGRAM.

THESE simple facts, insufficient for the slightest quarrel, intolerable in the pettiness of the issue disclosed, and monstrous as reason for war between two civilized nations, became the welcome pretext. Swiftly, and with ill-disguised alacrity, the French Cabinet took the next step in the duel. On the 15th of July the Prime-Minister read from the tribune a manifesto setting forth the griefs of France, — being, first, the refusal of the Prussian King to promise for the future, and, secondly, his refusal to receive the French Ambassador, with the communication of this refusal, as was alleged, "officially to the Cabinets of Europe," which was a mistaken allegation:[2] and the paper concludes by announcing that since the preceding day the Government had called in the reserves, and that they would immediately take the measures necessary to secure the interests, the safety, and the honor of France.[3] This was war.

[1] Bismarck to Bernstorff, July 19, 1870, with Inclosures: Parliamentary Papers, 1870, Vol. LXX., — Franco-Prussian War, No. 3, pp. 5–8. Gerolt to Fish, August 11, 1870, with Inclosures: Executive Documents, 41st Cong. 3d Sess., H. of R., Vol. I. No. 1, Part 1, — Foreign Relations, pp. 219–221. The reader will notice that the copy of the Telegram in this latter volume is the paper on p. 221, with the erroneous heading, "*Count Bismarck to Baron Gerolt.*"

[2] Bismarck to Bernstorff, July 18, and to Gerolt, July 19, 1870: Parliamentary Papers and Executive Documents, Inclosures, *ubi supra.*

[3] Journal Officiel du Soir, 17 Juillet 1870.

Some there were who saw the fearful calamity, the ghastly crime, then and there initiated. The scene that ensued belongs to this painful record. The paper announcing war was followed by prolonged applause. The Prime-Minister added soon after in debate, that he accepted the responsibility with "a light heart."[1] Not all were in this mood. Esquiros, the Republican, cried from his seat, in momentous words, "You have a light heart, and the blood of nations is about to flow!" To the apology of the Prime-Minister, "that in the discharge of a duty the heart is not troubled," Jules Favre, the Republican leader, of acknowledged moderation and ability, flashed forth, "When the discharge of this duty involves the slaughter of two nations, one may well have the heart troubled!" Beyond these declarations, giving utterance to the natural sentiments of humanity, was the positive objection, most forcibly presented by Thiers, so famous in the Chamber and in literature, "that the satisfaction due to France had been accorded her, — that Prussia had expiated by a check the grave fault she had committed," — that France had prevailed in substance, and all that remained was "a question of form," "a question of susceptibility," "questions of etiquette." The experienced statesman asked for the dispatches. Then came a confession. The Prime-Minister replied, that he had "nothing to communicate, — that, in the true sense of the term, there had been no dispatches, — that there were only verbal communications gathered up in reports, which, according to diplomatic usage, are not communicated." Here Emmanuel Arago interrupted: "It is on these reports that you make war!" The

[1] "De ce jour commence pour les ministres mes collègues, et pour moi, une grande responsibilité. ["Oui!" *à gauche.*] Nous l'acceptons, le cœur léger."

Prime-Minister proceeded to read two brief telegrams from Count Benedetti at Ems, when De Choiseul very justly exclaimed: "We cannot make war on that ground; it is impossible!" Others cried out from their seats, — Garnier-Pagès saying, "These are phrases"; Emmanuel Arago protesting, "On this the civilized world will pronounce you wrong"; to which Jules Favre added, "Unhappily, true!" Thiers and Jules Favre, with vigorous eloquence, charged the war upon the Cabinet: Thiers declaring, "I regret to be obliged to say that we have war by the fault of the Cabinet"; Jules Favre alleging, "If we have war, it is thanks to the politics of the Cabinet; . . . . from the exposition that has been made, so far as the general interests of the two countries are concerned, there is no avowable motive for war." Girault exclaimed, in similar spirit: "We would be among the first to come forward in a war for the country, but we do not wish to come forward in a dynastic and aggressive war." The Duc de Gramont, who on the 6th of July flung down the gauntlet, spoke once more for the Cabinet, stating solemnly, what was not the fact, that the Prussian Government had communicated to all the Cabinets of Europe the refusal to receive the French Ambassador, and then on this misstatement ejaculating: "It is an outrage on the Emperor and on France; and if, by impossibility, there were found in my country a Chamber to bear and tolerate it, I would not remain five minutes Minister of Foreign Affairs." In our country we have seen how the Southern heart was fired; so also was fired the heart of France. The Duke descended from the tribune amidst prolonged applause, with cries of "Bravo!" — and at his seat (so says the report) "received numerous felicitations." Such was the atmosphere

of the Chamber at this eventful moment. The orators of the Opposition, pleading for delay in the interest of peace, were stifled; and when Gambetta, the young and fearless Republican, made himself heard in calling for the text of the dispatch communicating the refusal to receive the Ambassador, to the end that the Chamber, France, and all Europe might judge of its character, he was answered by the Prime-Minister with the taunt that "for the first time in a French Assembly there were such difficulties on a certain side in explaining *a question of honor.*" Such was the case as presented by the Prime-Minister, and on this question of honor he accepted war "with a light heart." Better say, with no heart at all; — for whoso could find in this condition of things sufficient reason for war was without heart.[1]

During these brief days of solicitude, from the 6th to the 15th of July, England made an unavailing effort for peace. Lord Lyons was indefatigable; and he was sustained at home by Lord Granville, who as a last resort reminded the two parties of the stipulation at the Congress of Paris, which they had accepted, in favor of Arbitration as a substitute for War, and asked them to accept the good offices of some friendly power.[2] This most reasonable proposition was rejected by the French Minister, who gave new point to the French case by charging that Prussia "had chosen to declare that France had been affronted in the person of her Ambassador," and then positively insisting that "it was this boast which was the *gravamen* of the offence." Capping

[1] For the full debate, see the *Journal Officiel du Soir*, 17 Juillet 1870, and *Supplément.*

[2] Earl Granville to Lords Lyons and Loftus, July 15, 1870, — Correspondence respecting the Negotiations preliminary to the War between France and Prussia, p. 35 : Parliamentary Papers, 1870, Vol. LXX.

the climax of barbarous absurdity, the French Minister did not hesitate to announce that this "constituted an insult which no nation of any spirit could brook, and rendered it, much to the regret of the French Government, impossible to take into consideration the mode of settling the original matter in dispute which was recommended by her Majesty's Government."[1] Thus was peaceful Arbitration repelled. All honor to the English Government for proposing it!

The famous telegram put forward by France as the *gravamen*, or chief offence, was not communicated to the Chamber. The Prime-Minister, though hard-pressed, held it back. Was it from conviction of its too trivial character? But it is not lost to the history of the duel. This telegram, with something of the brevity peculiar to telegraphic dispatches, merely reports the refusal to see the French Ambassador, without one word of affront or boast. It reports the fact, and nothing else; and it is understood that the refusal was only when this functionary presented himself a second time in one day on the same business. Considering the interests involved, it would have been better, had the King seen him as many times as he chose to call; yet the refusal was not unnatural. The perfect courtesy of his Majesty on this occasion furnished no cause of complaint. All that remained for pretext was the telegram.[2]

[1] Lord Lyons to Earl Granville, July 15, 1870, — Correspondence respecting the Negotiations preliminary to the War between France and Prussia, pp. 39, 40 : Parliamentary Papers, 1870, Vol. LXX.

[2] See references, *ante*, p. 19, Note 1. For this telegram in the original, see Aegidi und Klauhold, *Staatsarchiv*, (Hamburg, 1870,) 19 Band, s. 44, No. 4033.

FORMAL DECLARATION OF WAR.

THE scene in the Legislative Body was followed by the instant introduction of bills making additional appropriations for the Army and Navy, calling out the National Guard, and authorizing volunteers for the war. This last proposition was commended by the observation that in France there were a great many young people liking powder, but not liking barracks, who would in this way be suited; and this was received with applause.[1] On the 18th of July there was a further appropriation to the extent of 500 million francs, — 440 millions being for the Army, and 60 for the Navy; and an increase from 150 to 500 millions Treasury notes was authorized.[2] On the 20th of July the Duc de Gramont appeared once more in the tribune, and made the following speech: —

"Conformably to customary rules, and by order of the Emperor, I have invited the *Chargé d'Affaires* of France to notify the Berlin Cabinet of our resolution to seek by arms the guaranties which we have not been able to obtain by discussion. This step has been taken, and I have the honor of making known to the Legislative Body that in consequence a state of war exists between France and Prussia, beginning the 19th of July. This declaration applies equally to the allies of Prussia who lend her the coöperation of their arms against us."[3]

Here the French Minister played the part of trumpeter in the duel, making proclamation before his champion rode forward. According to the statement of Count Bismarck, made to the Parliament at Berlin, this formal

[1] Journal Officiel du Soir, 17 Juillet 1870.
[2] Ibid., 20 Juillet.
[3] Ibid., 23 Juillet.

Declaration of War was the solitary official communication from France in this whole transaction, being the first and only note since the candidature of Prince Leopold.[1] How swift this madness will be seen in a few dates. On the 6th of July was uttered the first defiance from the French tribune; on the 15th of July an exposition of the griefs of France, in the nature of a Declaration of War, with a demand for men and money; on the 19th of July a state of war was declared to exist.

Firmly, but in becoming contrast with the "light heart" of France, this was promptly accepted by Germany, whose heart and strength found expression in the speech of the King at the opening of Parliament, hastily assembled on the 19th of July. With articulation disturbed by emotion and with moistened eyes, his Majesty said: —

"Supported by the unanimous will of the German governments of the South as of the North, we turn the more confidently to the love of Fatherland and the cheerful self-devotion of the German people, with a call to the defence of their honor and their independence." [2]

Parliament responded sympathetically to the King, and made the necessary appropriations. And thus the two champions stood front to front.

[1] Substance of Speech of Bismarck to the Reichstag, [July 20, 1870,] explanatory of Documents relating to the Declaration of War, — Franco-Prussian War, No. 3, p. 29: Parliamentary Papers, 1870, Vol. LXX. Discours du Comte de Bismarck au Reichstag, le 20 Juillet 1870: Angeberg, [Chodzko,] Recueil des Traités, etc., concernant la Guerre Franco-Allemande, Tom. I. p. 215.

[2] Aegidi und Klauhold, Staatsarchiv, 19 Band, s. 107, No. 4056. Parliamentary Papers, 1870, Vol. LXX.: Franco-Prussian War, No. 3, pp. 2–3.

THE TWO HOSTILE PARTIES.

THROUGHOUT France, throughout Germany, the trumpet sounded, and everywhere the people sprang to arms, as if the great horn of Orlando, after a sleep of ages, had sent forth once more its commanding summons. Not a town, not a village, that the voice did not penetrate. Modern invention had supplied an ally beyond anything in fable. From all parts of France, from all parts of Germany, armed men leaped forward, leaving behind the charms of peace and the business of life. On each side the muster was mighty, armies counting by the hundred thousand. And now, before we witness the mutual slaughter, let us pause to consider the two parties, and the issue between them.

France and Germany are most unlike, and yet the peers of each other, while among the nations they are unsurpassed in civilization, each prodigious in resources, splendid in genius, and great in renown. No two nations are so nearly matched. By Germany I now mean not only the States constituting North Germany, but also Würtemberg, Baden, and Bavaria of South Germany, allies in the present war, all of which together make about fifty-three millions of French hectares, being very nearly the area of France. The population of each is not far from thirty-eight millions, and it would be difficult to say which is the larger. Looking at finances, Germany has the smaller revenue, but also the smaller debt, while her rulers, following the sentiment of the people, cultivate a wise economy, so that here again substantial equality is maintained with France. The armies of the two, embracing regular troops and those subject to call, did not differ much in numbers,

unless we set aside the authority of the "Almanach de Gotha," which puts the military force of France somewhat vaguely at 1,350,000, while that of North Germany is only 977,262, to which must be added 49,949 for Bavaria, 34,953 for Würtemberg, and 43,703 for Baden, making a sum-total of 1,105,867. This, however, is chiefly on paper, where it is evident France is stronger than in reality. Her available force at the outbreak of the war probably did not amount to more than 350,000 bayonets, while that of Germany, owing to her superior system, was as much as double this number. In Prussia every man is obliged to serve, and, still further, every man is educated. Discipline and education are two potent adjuncts. This is favorable to Germany. In the Chassepot and needle-gun the two are equal. But France excels in a well-appointed Navy, having no less than 55 iron-clads, and 384 other vessels of war, while Germany has but 2 iron-clads, and 87 other vessels of war.[1] Then again for long generations has existed another disparity, to the great detriment of Germany. France has been a nation, while Germany has been divided, and therefore weak. Strong in union, the latter now claims something more than that *dominion of the air* once declared to be hers, while France had the land and England the sea.[2] The dominion of the land is at last contested, and we are saddened inexpressibly, that, from the elevation they

[1] For the foregoing statistics, see *Almanach de Gotha*, 1870, under the names of the several States referred to, — also, for Areas and Population, *Tableaux Comparatifs*, I., II., III., in same volume, pp. 1037 – 38.

[2] "So wie die Franzosen die Herren des Landes sind, die Engländer die des grössern Meeres, wir die der Beide und Alles umfassenden Luft sind."— RICHTER, (Jean Paul,) *Frieden-Predigt an Deutschland*, V. : Sämmtliche Werke, (Berlin, 1826 – 38,) Theil XXXIV. s. 13.

have reached, these two peers of civilization can descend to practise the barbarism of war, and especially that the land of Descartes, Pascal, Voltaire, and Laplace must challenge to bloody duel the land of Luther, Leibnitz, Kant, and Humboldt.

FOLLY.

PLAINLY between these two neighboring powers there has been unhappy antagonism, constant, if not increasing, partly from the memory of other days, and partly because France could not bear to witness that German unity which was a national right and duty. Often it has been said that war was inevitable. But it has come at last by surprise, and on "a question of form." So it was called by Thiers; so it was recognized by Ollivier, when he complained of insensibility to a question of honor; and so also by the Duc de Gramont, when he referred it all to a telegram. This is not the first time in history that wars have been waged on trifles; but since the Lord of Frauenstein challenged the free city of Frankfort because a young lady of the city refused to dance with his uncle, nothing has passed more absurd than this challenge sent by France to Germany because the King of Prussia refused to see the French Ambassador a second time on the same matter, and then let the refusal be reported by telegraph. Here is the folly exposed by Shakespeare, when Hamlet touches a madness greater than his own in that spirit which would "find quarrel in a straw when honor 's at the stake," and at the same time depicts an army

> "Led by a delicate and tender prince,
> . . . . .
> Exposing what is mortal and unsure
> To all that Fortune, Death, and Danger dare,
> *Even for an egg-shell.*"

There can be no quarrel in a straw or for an egg-shell, unless men have gone mad. Nor can honor in a civilized age require any sacrifice of reason or humanity.

UNJUST PRETENSION OF FRANCE TO INTERFERE WITH THE CANDIDATURE OF HOHENZOLLERN.

If the utter triviality of the pretext were left doubtful in the debate, if its towering absurdity were not plainly apparent, if its simple wickedness did not already stand before us, we should find all these characteristics glaringly manifest in that unjust pretension which preceded the objection of form, on which France finally acted. A few words will make this plain.

In a happy moment Spain rose against Queen Isabella, and, amidst cries of "Down with the Bourbons!" drove her from the throne which she dishonored. This was in September, 1868. Instead of constituting a Republic at once, in harmony with those popular rights which had been proclaimed, the half-hearted leaders proceeded to look about for a King; and from that time till now they have been in this quest, as if it were the Holy Grail, or happiness on earth. The royal family of Spain was declared incompetent. Therefore a king must be found outside, — and so the quest was continued in other lands. One day the throne is offered to a prince of Portugal, then to a prince of Italy, but declined by each, — how wisely the future will show. At last, after a protracted pursuit of nearly two years, the venturesome soldier who is Captain-General and Prime-Minister, Marshal Prim, conceives the idea of offering it to a prince of Germany. His luckless victim is Prince Leopold of Hohenzollern-Sigmaringen, a

Catholic, thirty-five years of age, and colonel of the first regiment of the Prussian foot-guards, whose father, a mediatized German prince, resides at Düsseldorf. The Prince had not the good sense to decline. How his acceptance excited the French Cabinet, and became the beginning of the French pretext, I have already exposed; and now I come to the pretension itself.

By what title did France undertake to interfere with the choice of Spain? If the latter was so foolish as to seek a foreigner for king, making a German first among Spaniards, by what title did any other power attempt to control its will? To state the question is to answer it. Beginning with an outrage on Spanish independence, which the Spain of an earlier day would have resented, the next outrage was on Germany, in assuming that an insignificant prince of that country could not be permitted to accept the invitation, — all of which, besides being of insufferable insolence, was in that worst dynastic spirit which looks to princes rather than the people. Plainly France was unjustifiable. When I say it was none of her business, I give it the mildest condemnation. This was the first step in her monstrous *blunder-crime*.

Its character as a pretext becomes painfully manifest, when we learn more of the famous Prince Leopold, thus invited by Spain and opposed by France. It is true that his family name is in part the same as that of the Prussian king. Each is Hohenzollern; but he adds Sigmaringen to the name. The two are different branches of the same family; but you must ascend to the twelfth century, counting more than twenty degrees, before you come to a common ancestor.[1] And yet on this most

[1] Conversations-Lexikon, (Leipzig, 1866,) 8 Band, art. HOHENZOLLERN. Carlyle's History of Friedrich II., (London, 1858,) Book III. Ch. 1, Vol. I. p. 200.

distant and infinitesimal relationship the French pretension is founded. But audacity changes to the ridiculous, when it is known that the Prince is nearer in relationship to the French Emperor than to the Prussian King, and this by three different intermarriages, which do not go back to the twelfth century. Here is the case. His grandfather had for wife a niece of Joachim Murat,[1] King of Naples, and brother-in-law of the first Napoleon; and his father had for wife a daughter of Stéphanie de Beauharnais, an adopted daughter of the first Napoleon; so that Prince Leopold is by his father great-grand-nephew of Murat, and by his mother he is grandson of Stéphanie de Beauharnais, who was cousin and by adoption sister of Hortense de Beauharnais, mother of the present Emperor; and to this may be added still another connection, by the marriage of his father's sister with Joachim Napoleon, Marquis of Pepoli, grandson of Joachim Murat.[2] It was natural that a person thus connected with the Imperial Family should be a welcome visitor at the Tuileries; and it is easy to believe that Marshal Prim, who offered him the throne, was encouraged to believe that the Emperor's kinsman and guest would be favorably regarded by France. And yet, in the face of these things, and the three several family ties, fresh and modern, binding him to France and the French Emperor, the pretension was set up that his occupation of the Spanish throne would put in peril the interests and the honor of France.

[1] Antoinette, daughter of Étienne Murat, third brother of Joachim. — *Biographie Générale*, (Didot,) Tom. XXXVI. col. 984, art. MURAT, note.

[2] Almanach de Gotha, 1870, pp. 85–87, art. HOHENZOLLERN-SIGMARINGEN.

BECAUSE FRANCE WAS READY.

In sending defiance to Prussia on this question, the French Cabinet selected their own ground. Evidently a war had been meditated, and the candidature of Prince Leopold from beginning to end supplied a pretext. In this conclusion, which is too obvious, we are hardly left to inference. The secret was disclosed by Rouher, President of the Senate, lately the eloquent and unscrupulous Minister, when, in an official address to the Emperor, immediately after the War Manifesto read by the Prime-Minister, he declared that France quivered with indignation at the flights of an ambition over-excited by the one day's good-fortune at Sadowa, and then proceeded:—

"Animated by that calm perseverance which is true force, your Majesty has known how to wait; but in the last four years you have carried to its highest perfection the arming of our soldiers, and raised to its full power the organization of our military forces. *Thanks to your care, Sire, France is ready.*"[1]

Thus, according to the President of the Senate, France, after waiting, commenced war because she was ready,—while, according to the Cabinet, it was on the point of honor. Both were right. The war was declared because the Emperor thought himself ready, and a pretext was found in the affair of the telegram.

Considering the age, and the present demands of civilization, such a war stands forth terrific in wrong, making the soul rise indignant against it. One reason avowed is brutal; the other is frivolous; both are criminal. If we look into the text of the Manifesto

[1] Address at the Palais de Saint-Cloud, July 16, 1870: Journal Officiel du Soir, 18 Juillet 1870.

and the speeches of the Cabinet, it is a war founded on a trifle, on a straw, on an egg-shell. Obviously these were pretexts only. Therefore it is a war of pretexts, the real object being the humiliation and dismemberment of Germany, in the vain hope of exalting the French Empire and perpetuating a bawble crown on the head of a boy. By military success and a peace dictated at Berlin, the Emperor trusted to find himself in such condition, that, on return to Paris, he could overthrow parliamentary government so far as it existed there, and reëstablish personal government, where all depended upon himself,— thus making triumph over Germany the means of another triumph over the French people.

In other times there have been wars as criminal in origin, where trifle, straw, or egg-shell played its part; but they contrasted less with the surrounding civilization. To this list belong the frequent Dynastic Wars, prompted by the interest, the passion, or the whim of some one in the Family of Kings. Others have begun in recklessness kindred to that we now witness,— as when England entered into war with Holland, and for reason did not hesitate to allege "abusive pictures."[1] The England of Charles the Second was

[1] Hume, History of England, Ch. LXV., March 17, 1672. — The terms of the Declaration on this point were, — "Scarce a town within their territories that is not filled with abusive pictures." (Hansard's *Parliamentary History*, Vol. IV. col. 514.) Upon which Hume remarks: "The Dutch were long at a loss what to make of this article, till it was discovered that a portrait of Cornelius de Witt, brother to the Pensionary, painted by order of certain magistrates of Dort, and hung up in a chamber of the Town-House, had given occasion to the complaint. In the perspective of this portrait the painter had drawn some ships on fire in a harbor. This was construed to be Chatham, where De Witt had really distinguished himself," during the previous war, in the way here indicated, — "the disgrace" of which, says Lingard, "sunk deep into the heart of the King and the hearts of his subjects." — *History of England*, Vol. IX. Ch. III., June 13, 1667.

hardly less sensitive than the France of Louis Napoleon, while in each was similar indifference to consequences. But France has precedents of her own. From the remarkable correspondence of the Princess Palatine, Duchess of Orléans, we learn that the first war with Holland under Louis the Fourteenth was brought on by the Minister, De Lionne, to injure a petty German prince who had made him jealous of his wife.[1] The communicative and exuberant Saint-Simon tells us twice over how Louvois, another Minister of Louis the Fourteenth, being overruled by his master with regard to the dimensions of a window at Versailles, was filled with the idea that "on account of a few inches in a window," as he expressed it, all his services would be forgotten, and therefore, to save his place, excited a foreign war that would make him necessary to the King. The flames in the Palatinate, devouring the works of man, attested his continuing power. The war became general, but, according to the chronicler, it ruined France at home, and did not extend her domain abroad.[2] The French Emperor confidently expected to occupy the same historic region so often burnt and ravaged by French armies, with that castle of Heidelberg which repeats the tale of blood, — and, let me say, expected it for no better reason than that of his royal predecessor, stimulated by an unprincipled Minister anxious for personal position. The parallel is continued in the curse which the Imperial arms have brought on France.

[1] Briefe der Prinzessin Elisabeth Charlotte von Orleans an die Raugräfin Louise, 1676-1722, herausg. von W. Menzel, (Stuttgart, 1843,) — Paris, 31 Mertz, 1718, s. 288.

[2] Mémoires, (Paris, 1829,) Tom. VII. pp. 49-51; XIII. pp. 9-10.

PROGRESS OF THE WAR.

How this war proceeded I need not recount. You have all read the record day by day, sorrowing for Humanity, — how, after briefest interval of preparation or hesitation, the two combatants first crossed swords at Saarbrücken, within the German frontier, and the young Prince Imperial performed his part in picking up a bullet from the field, which the Emperor promptly reported by telegraph to the Empress, — how this little military success is all that was vouchsafed to the man who began the war, — how soon thereafter victory followed, first on the hill-sides of Wissembourg and then of Woerth, shattering the army of MacMahon, to which the Empire was looking so confidently, — how another large army under Bazaine was driven within the strong fortress of Metz, — how all the fortresses, bristling with guns and frowning upon Germany, were invested, — how battle followed battle on various fields, where Death was the great conqueror, — how, with help of modern art, war showed itself to be murder by machinery, — how MacMahon, gathering together his scattered men and strengthening them with reinforcements, attempted to relieve Bazaine, — how at last, after long marches, his large army found itself shut up at Sedan with a tempest of fire beating upon its huddled ranks, so that its only safety was capitulation, — how with the capitulation of the army was the submission of the Emperor himself, who gave his sword to the King of Prussia and became prisoner of war, — and how, on the reception of this news at Paris, Louis Napoleon and his dynasty were divested of their powers and the Empire was lost in the Republic. These things you know. I

need not dwell on them. Not to battles and their fearful vicissitudes, where all is incarnadined with blood, must we look, but to the ideas which prevail, — as for the measure of time we look, not to the pendulum in its oscillations, but to the clock in the tower, whose striking tells the hours. A great hour for Humanity sounded when the Republic was proclaimed. And this I say, even should it fail again; for every attempt contributes to the final triumph.

A WAR OF SURPRISES.

The war, from the pretext at its beginning to the capitulation at Sedan, has been a succession of surprises, where the author of the pretext was a constant sufferer. Nor is this strange. Falstaff says, with humorous point, "See now how wit may be made a Jack-a-lent, when 't is upon ill employment!"[1] — and another character, in a play of Beaumont and Fletcher, reveals the same evil destiny in stronger terms, when he says, —

> "Hell gives us art to reach the depth of sin,
> But leaves us wretched fools, when we are in."[2]

And this was precisely the condition of the French Empire. Germany perhaps had one surprise, at the sudden adoption of the pretext for war. But the Empire has known nothing but surprise. A fatal surprise was the promptitude with which all the German States, outside of Austrian rule, accepted the leadership of Prussia, and joined their forces to hers. Differences were forgotten, — whether the hate of Hanover, the

[1] Merry Wives of Windsor, Act V. Sc. 5.
[2] Queen of Corinth, Act IV. Sc. 3.

dread of Würtemberg, the coolness of Bavaria, the opposition of Saxony, or the impatience of the Hanse Towns at lost importance. Hanover would not rise; the other States and cities would not be detached. On the day after the reading of the War Manifesto at the French tribune, even before the King's speech to the Northern Parliament, the Southern States began to move. German unity stood firm, and this was the supreme surprise for France with which the war began. On one day the Emperor in his Official Journal declares his object to be the deliverance of Bavaria from Prussian oppression, and on the very next day the Crown Prince of Prussia, at the head of Bavarian troops, crushes an Imperial army.

Then came the manifest inferiority of the Imperial army, everywhere outnumbered, which was another surprise, — the manifest inferiority of the Imperial artillery, also a surprise, — the manifest inferiority of the Imperial generals, still a surprise. Above these was a prevailing inefficiency and improvidence, which very soon became conspicuous, and this was a surprise. The strength of Germany, as now exhibited, was a surprise. And when the German armies entered France, every step was a surprise. Wissembourg was a surprise; so was Woerth; so was Beaumont; so was Sedan. Every encounter was a surprise. Abel Douay, the French general, who fell bravely fighting at Wissembourg, the first sacrifice on the battle-field, was surprised; so was MacMahon, not only at the beginning, but at the end. He thought that the King and Crown Prince were marching on Paris. So they were, — but they turned aside for a few days to surprise a whole army of more than a hundred thousand men, terrible with cannon and

newly invented implements of war, under a Marshal of France, and with an Emperor besides. As this succession of surprises was crowned with what seemed the greatest surprise of all, there remained a greater still in the surprise of the French Empire. No Greek Nemesis with unrelenting hand ever dealt more incessantly the unavoidable blow, until the Empire fell as a dead body falls, while the Emperor became a captive and the Empress a fugitive, with their only child a fugitive also. The poet says: —

> "Sometime let gorgeous Tragedy
> In sceptred pall come sweeping by."[1]

It has swept before the eyes of all. Beneath that sceptred pall is the dust of a great Empire, founded and ruled by Louis Napoleon; if not the dust of the Emperor also, it is because he was willing to sacrifice others rather than himself.

OTHER FRENCH SOVEREIGNS CAPTURED ON THE BATTLE-FIELD.

Twice before have French sovereigns yielded on the battle-field, and become prisoners of war; but never before was capitulation so vast. Do their fates furnish any lesson? At the Battle of Poitiers, memorable in English history, John, King of France, became the prisoner of Edward the Black Prince. His nobles, one after another, fell by his side, but he contended valiantly to the last, until, spent with fatigue and overcome by numbers, he surrendered. His son, of the same age as the son of the French Emperor, was

[1] Milton, Il Penseroso, 97-98.

wounded while battling for his father. The courtesy of the English Prince conquered more than his arms. I quote the language of Hume: —

"More touched by Edward's generosity than by his own calamities, he confessed, that, notwithstanding his defeat and captivity, his honor was still unimpaired, and that, if he yielded the victory, it was at least gained by a prince of such consummate valor and humanity." [1]

The King was taken to England, where, after swelling the triumphal pageant of his conqueror, he made a disgraceful treaty for the dismemberment of France, which the indignant nation would not ratify. A captivity of more than four years was terminated by a ransom of three million crowns in gold, — an enormous sum, more than ten million dollars in our day. Evidently the King was unfortunate, for he did not continue in France, but, under the influence of motives differently stated, returned to England, where he died. Surely here is a lesson.

More famous than John was Francis, with salamander crest, also King of France, and rich in gayety, whose countenance, depicted by that art of which he was the patron, stands forth conspicuous in the line of kings. As the French Emperor attacked Germany, so did the King enter Italy, and he was equally confident of victory. On the field of Pavia he encountered an army of Charles the Fifth, but commanded by his generals, when, after fighting desperately and killing seven men with his own hand, he was compelled to surrender. His mother was at the time Regent of France, and to

[1] History of England, (Oxford, 1826,) Ch. XVI., Vol. II. p. 407.

her he is said to have written the sententious letter, "All is lost except honor." No such letter was written by Francis,[1] nor do we know of any such letter by Louis Napoleon; but the situation of the two Regents was identical. Here are the words in which Hume describes the condition of the earlier: —

"The Princess was struck with the greatness of the calamity. She saw the kingdom without a sovereign, without an army, without generals, without money, surrounded on every side by implacable and victorious enemies; and her chief resource, in her present distresses, were the hopes which she entertained of peace, and even of assistance from the King of England."[2]

Francis became the prisoner of Charles the Fifth, and was conveyed to Madrid, where, after a year of captivity, he was at length released, crying out, as he crossed the French frontier, "Behold me King again!"[3] Is not the fate of Louis Napoleon prefigured in the exile and death of his royal predecessor John, rather than in the return of Francis with his delighted cry?

LOUIS NAPOLEON.

THE fall of Louis Napoleon is natural. It is hard to see how it could be otherwise, so long as we continue to

> "assert eternal Providence,
> And justify the ways of God to men."[4]

Had he remained successful to the end, and died peace-

[1] Sismondi, Histoire des Français, Tom. XVI. pp. 241 – 42. Martin, Histoire de France, (4ème édit.,) Tom. VIII. pp. 67, 68.

[2] History of England, (Oxford, 1826,) Ch. XXIX., Vol. IV. p. 51.

[3] Sismondi, Tom. XVI. p. 277. Martin, Tom. VIII. p. 90.

[4] Paradise Lost, Book I. 25 – 26.

fully on the throne, his name would have been a perpetual encouragement to dishonesty and crime. By treachery without parallel, breaking repeated promises and his oath of office, he was able to trample on the Republic. Taking his place in the National Assembly after long exile, the adventurer made haste to declare exultation in regaining his country and all his rights as citizen, with the ejaculation, "The Republic has given me this happiness: let the Republic receive my oath of gratitude, my oath of devotion!" — and next he proclaimed that there was nobody to surpass him in determined consecration "to the defence of order and to the establishment of the Republic."[1] Good words these. Then again, when candidate for the Presidency, in a manifesto to the electors he gave another pledge, announcing that he "would devote himself altogether, without mental reservation, to the establishment of a Republic, wise in its laws, honest in its intentions, great and strong in its acts"; and he volunteered further words, binding him in special loyalty, saying that he "should make it *a point of honor* to leave to his successor, at the end of four years, power strengthened, liberty intact, real progress accomplished."[2] How these plain and unequivocal engagements were openly broken you shall see.

Chosen by the popular voice, his inauguration took place as President of the Republic, when he solemnly renewed the engagements already assumed. Ascending from his seat in the Assembly to the tribune, and holding up his hand, he took the following oath of office: "In presence of God, and before the French people,

[1] Séance du 26 Septembre 1848: Moniteur, 27 Septembre.
[2] A ses Concitoyens: Œuvres, Tom. III. p. 25.

represented by the National Assembly, I swear to remain faithful to the Democratic Republic One and Indivisible, and to fulfil all the duties which the Constitution imposes upon me." This was an oath. Then, addressing the Assembly, he said: "The suffrages of the nation and the oath which I have just taken prescribe my future conduct. My duty is marked out. I will fulfil it as *a man of honor*." Again he attests his honor. Then, after deserved tribute to his immediate predecessor and rival, General Cavaignac, on his loyalty of character, and that sentiment of duty which he declares to be "the first quality in the chief of a State," he renews his vows to the Republic, saying, "We have, Citizen Representatives, a great mission to fulfil; it is to found a Republic in the interest of all"; and he closed amidst cheers for the Republic.[1] And yet, in the face of this oath of office and this succession of most solemn pledges, where he twice attests his honor, he has hardly become President before he commences plotting to make himself Emperor, until, at last, by violence and blood, with brutal butchery in the streets of Paris, he succeeded in overthrowing the Republic, to which he was bound by obligations of gratitude and duty, as well as by engagements in such various form. The Empire was declared. Then followed his marriage, and a dynastic ambition to assure the crown for his son.

Early in life a "Charcoal" conspirator against kings,[2] he now became a crowned conspirator against republics. The name of Republic was to him a reproof, while its glory was a menace. Against the Roman Republic he conspired early; and when the rebellion waged

[1] Séance du 20 Décembre 1848: Moniteur, 21 Décembre.

[2] A member of the secret society of the *Carbonari* in Italy.

by Slavery seemed to afford opportunity, he conspired against our Republic, promoting as far as he dared the independence of the Slave States, and at the same time on the ruins of the Mexican Republic setting up a mock Empire. In similar spirit has he conspired against German Unity, whose just strength promised to be a wall against his unprincipled self-seeking.

This is but an outline of that incomparable perfidy, which, after a career of seeming success, is brought to a close. Of a fallen man I would say nothing; but, for the sake of Humanity, Louis Napoleon should be exposed. He was of evil example, extending with his influence. To measure the vastness of this detriment is impossible. In sacrificing the Republic to his own aggrandizement, in ruling for a dynasty rather than the people, in subordinating the peace of the world to his own wicked ambition for his boy, he set an example of selfishness, and in proportion to his triumph was mankind corrupted in its judgment of human conduct. Teaching men to seek ascendency at the expense of duty, he demoralized not only France, but the world. Unquestionably part of this evil example was his falsehood to the Republic. Promise, pledge, honor, oath, were all violated in this monstrous treason. Never in history was greater turpitude. Unquestionably he could have saved the Republic, but he preferred his own exaltation. As I am a Republican, and believe republican institutions for the good of mankind, I cannot pardon the traitor. The people of France are ignorant; he did not care to have them educated, for their ignorance was his strength. With education bestowed, the Republic would have been assured. And even after the Empire, had he thought more of education and less of his dy-

nasty, there would have been a civilization throughout France making war impossible. Unquestionably the present war is his work, instituted for his imagined advantage. Bacon, in one of his remarkable Essays, tells us that "Extreme self-lovers will set an house on fire, and it were but to roast their eggs."[1] Louis Napoleon has set Europe on fire to roast his.

Beyond the continuing offence of his public life, I charge upon him three special and unpardonable crimes: first, that violation of public duty and public faith, contrary to all solemnities of promise, by which the whole order of society was weakened and human character was degraded; secondly, disloyalty to republican institutions, so that through him the Republic has been arrested in Europe; and, thirdly, this cruel and causeless war, of which he is the guilty author.

RETRIBUTION.

Of familiar texts in Scripture, there is one which, since the murderous outbreak, has been of constant applicability and force. You know it: "All they that take the sword shall perish with the sword":[2] and these words are addressed to nations as to individuals. France took the sword against Germany, and now lies bleeding at every pore. Louis Napoleon took the sword, and is nought. Already in that *coup d'état* by which he overthrew the Republic he took the sword, and now the Empire, which was the work of his hands, expires. In Mexico again he took the sword, and again paid the fearful penalty, — while the Austrian Archduke, who,

[1] Of Wisdom for a Man's Self: Essay XXIII.

[2] Matthew, xxvi. 52.

yielding to his pressure, made himself Emperor there, was shot by order of the Mexican President, an Indian of unmixed blood. And here there was retribution, not only for the French Emperor, but far beyond. I know not if there be invisible threads by which the Present is attached to the distant Past, making the descendant suffer even for a distant ancestor, but I cannot forget that Maximilian was derived from that very family of Charles the Fifth, whose conquering general, Cortés, stretched the Indian Guatemozin upon a bed of fire, and afterwards executed him on a tree. The death of Maximilian was tardy retribution for the death of Guatemozin. And thus in this world is wrong avenged, sometimes after many generations. The fall of the French Emperor is an illustration of that same retribution which is so constant. While he yet lives, judgment has begun.

If I accumulate instances, it is because the certainty of retribution for wrong, and especially for the great wrong of War, is a lesson of the present duel to be impressed. Take notice, all who would appeal to war, that the way of the transgressor is hard, and sooner or later he is overtaken. The ban may fall tardily, but it is sure to fall.

Retribution in another form has already visited France; nor is its terrible vengeance yet spent. Not only are populous cities, all throbbing with life and filled with innocent households, subjected to siege, but to bombardment also,—being that most ruthless trial of war, where non-combatants, including women and children, sick and aged, share with the soldier his peculiar perils, and suffer alike with him. All are equal before the hideous shell, crashing, bursting, destroying, killing, and changing

the fairest scene into blood-spattered wreck. Against its vengeful, slaughterous descent there is no protection for the people, — nothing but an uncertain shelter in cellars, or, it may be, in the common sewers. Already Strasbourg, Toul, and Metz have been called to endure this indiscriminate massacre, where there is no distinction of persons; and now the same fate is threatened to Paris the Beautiful, with its thronging population counted by the million. Thus is the ancient chalice which France handed to others now commended to her own lips. It was France that first in history adopted this method of war. Long ago, under Louis the Fourteenth, it became a favorite; but it has not escaped the judgment of history. Voltaire, with elegant pen, records that "this art, carried soon among other nations, served only to multiply human calamities, and more than once was dreadful to France, where it was invented."[1] The bombardment of Luxembourg in 1683 drew from Sismondi, always humane and refined, words applicable to recent events. "Louis the Fourteenth," he says, "had been the first to put in practice this atrocious and newly invented method of bombarding towns, ... of attacking, not fortifications, but private houses, not soldiers, but peaceable inhabitants, women and children, and of confounding thousands of private crimes, each one of which would cause horror, in one great public crime, one great disaster, which he regarded as nothing more than one of the catastrophes of war."[2] Again is the saying fulfilled, "All they that take the sword shall perish with the sword." No lapse of time

[1] Siècle de Louis XIV., Ch. XIV. : Œuvres, (édit. 1784-89,) Tom. XX. p. 406.

[2] Histoire des Français, Tom. XXV. pp. 452-53.

can avert the inexorable law. Macbeth saw it in his terrible imaginings, when he said, —

> "But in these cases
> We still have judgment here, — that we but teach
> Bloody instructions, which, being taught, return
> To plague the inventor."

And what instruction more bloody than the bombardment of a city, which now returns to plague the French people?

Thus is history something more even than philosophy teaching by example; it is sermon with argument and exhortation. The simple record of nations preaches; and whether you regard reason or the affections, it is the same. If nations were wise or humane, they would not fight.

PEACE AFTER CAPITULATION AT SEDAN.

VAIN are lessons of the past or texts of prudence against that spirit of War which finds sanction and regulation in International Law. So long as the war system continues, men will fight. While I speak, the two champions still stand front to front, Germany exulting in victory, but France in no respect submissive. The duel still rages, although one of the champions is pressed to earth, as in that early combat where the Chevalier Bayard, so eminent in chivalry, thrust his dagger into the nostrils of his fallen foe, and then dragged his dead body off the field. History now repeats itself, and we witness in Germany the very conduct condemned in the famous French knight.

The French Emperor was the aggressor. He began this fatal duel. Let him fall, — but not the people of France. Cruelly already have they expiated their

offence in accepting such a ruler. Not always should they suffer. Enough of waste, enough of sacrifice, enough of slaughter have they undergone. Enough have they felt the accursed hoof of War.

It is easy to see now, that, after the capitulation at Sedan, there was a double mistake: first, on the part of Germany, which, as magnanimous conqueror, should have proposed peace, thus conquering in character as in arms; and, secondly, on the part of the Republic, which should have declined to wage a war of Imperialism, against which the Republican leaders had so earnestly protested. With the capitulation of the Emperor the dynastic question was closed. There was no longer pretension or pretext, nor was there occasion for war. The two parties should have come to an understanding. Why continue this terrible homicidal, fratricidal, suicidal combat, fraught with mutual death and sacrifice? Why march on Paris? Why beleaguer Paris? Why bombard Paris? To what end? If for the humiliation of France, then must it be condemned.

THREE ESSENTIAL CONDITIONS OF PEACE.

In arriving at terms of peace, there are at least three conditions which cannot be overlooked in the interest of civilization, and that the peace may be such in reality as in name, and not an armistice only, — three postulates which stand above all question, and dominate this debate, so that any essential departure from them must end in wretched failure.

The first is the natural requirement of Germany, that there shall be completest guaranty against future aggression, constituting what is so well known among us as

"Security for the Future." Count Bismarck, with an exaggeration hardly pardonable, alleges more than twenty invasions of Germany by France, and declares that these must be stopped forever.[1] Many or few, they must be stopped forever. The second condition to be regarded is the natural requirement of France, that the guaranty, while sufficient, shall be such as not to wound needlessly the sentiments of the French people, or to offend any principle of public law. It is difficult to question these two postulates, at least in the abstract. Only when we come to the application is there opportunity for difference. The third postulate, demanded alike by justice and humanity, is the establishment of some rule or precedent by which the recurrence of such a barbarous duel shall be prevented. It will not be enough to obtain a guaranty for Germany; there must be a guaranty for Civilization itself.

On careful inquiry, it will be seen that all these can be accomplished in one way only, which I will describe, when I have first shown what is now put forward and discussed as the claim of Germany, under two different heads, Indemnity and Guaranty.

INDEMNITY OF GERMANY.

I HAVE already spoken of Guaranty as an essential condition. Indemnity is not essential. At the close of our war with Slavery we said nothing of indemnity. For the life of the citizen there could be no indemnity; nor was it practicable even for the treasure sacrificed. Security for the Future was all that our nation required,

[1] Circular of September 16, 1870: Foreign Relations of the United States, — Executive Documents, 41st Cong. 3d Sess., H. of R., Vol. I. No. 1, Part 1, pp. 212-13.

and this was found in provisions of Law and Constitution establishing Equal Rights. From various intimations it is evident that Germany will not be content without indemnity in money on a large scale; and it is also evident that France, the aggressor, cannot, when conquered, deny liability to a certain extent. The question will be on the amount. Already German calculators begin to array their unrelenting figures. One of these insists that the indemnity shall not only cover outlay for the German Army, — pensions of widows and invalids, — maintenance and support of French wounded and prisoners, — compensation to Germans expelled from France, — also damage suffered by the territory to be annexed, especially Strasbourg; but it is also to cover indirect damages, large in amount, — as, loss to the nation from change of productive laborers into soldiers, — loss from killing and disabling so many laborers, — and, generally, loss from suspension of trade and manufactures, depreciation of national property, and diminution of the public revenues: — all of which, according to a recent estimate, reach the fearful sum-total of 4,935,000,000 francs, or nearly one thousand million dollars. Of this sum, 1,255,000,000 francs are on account of the Army, 1,230,000,000 for direct damage, 2,250,000,000 for indirect damage, and 200,000,000 for damage to the reconquered provinces. Still further, the Berlin Chamber of Commerce insists on indemnity not only for actual loss of ships and cargoes from the blockade, but also for damages on account of detention. Much of this many-headed account, which I introduce in order to open the case in its extent, will be opposed by France, as fabulous, consequential, and remote. The practical question will be, Can one nation do wrong to

another without paying for the damage, whatever it may be, direct or indirect, — always provided it be susceptible of estimate? Here I content myself with the remark, that, while in the settlement of international differences there is no place for technicality, there is always room for moderation.

GUARANTY OF DISMEMBERMENT.

VAST as may be the claim of indemnity, it opens no question so calculated to touch the sensibilities of France as the claim of guaranty already announced by Germany. On this head we are not left to conjecture. From her first victory we have been assured that Germany would claim Alsace and German Lorraine, with their famous strongholds; and now we have the statement of Count Bismarck, in a diplomatic circular, that he expects to remove the German frontier further west, — meaning to the Vosges Mountains, if not to the Moselle also, — and to convert the fortresses into what he calls "defensive strongholds of Germany."[1] Then, with larger view, he declares, that, "in rendering it more difficult for France, from whom all European troubles have so long proceeded, to assume the offensive, we likewise promote the common interest of Europe, which demands the preservation of peace." Here is just recognition of peace as the common interest of Europe, to be assured by disabling France. How shall this be done? The German Minister sees nothing but dismemberment, consecrated by a Treaty of Peace. With diplomatic shears he would cut off a portion of French territory, and, taking from it the name of France,

[1] Circular of September 16, 1870, — *ubi supra*, p. 49, Note 1.

stamp upon it the trade-mark of Germany. Two of its richest and most precious provinces, for some two hundred years constituent parts of the great nation, with that ancient cathedral city, the pride of the Rhine, long years ago fortified by Vauban as "the strongest barrier of France,"[1] are to be severed, and with them a large and industrious population, which, while preserving the German language, have so far blended with France as to become Frenchmen. This is the German proposition, which I call the Guaranty of Dismemberment.

One argument for this proposition is brushed aside easily. Had the fortune of war been adverse to Germany, it is said, peace would have been dictated at Berlin, perhaps at Königsberg, and France would have carried her frontier eastward to the Rhine, dismembering Germany. Such, I doubt not, would have been the attempt. The conception is entirely worthy of that Imperial levity with which the war began. But the madcap menace of the French Empire cannot be the measure of German justice. It is for Germany to show, that, notwithstanding this wildness, she knows how to be just. Dismemberment on this account would be only another form of retaliation; but retaliation is barbarous.

To the argument, that these provinces, with their strongholds, are needed for the defence of Germany, there is the obvious reply, that, if cut off from France contrary to the wishes of the local population, and with the French people in chronic irritation on this account, they will be places of weakness rather than strength, strongholds of disaffection rather than defence,

[1] Voltaire, Siècle de Louis XIV., Ch. XIV.: Œuvres, (édit. 1784–89,) Tom. XX. p. 403.

to be held always at the cannon's mouth. Does Germany seek lasting peace? Not in this way can it be had. A painful exaction, enforced by triumphant arms, must create a sentiment of hostility in France, suppressed for a season, but ready at a propitious moment to break forth in violence; so that between the two conterminous nations there will be nothing better than a peace where each sleeps on its arms, — which is but an Armed Peace. Such for weary years has been the condition of nations. Is Germany determined to prolong the awful curse? Will her most enlightened people, with poetry, music, literature, philosophy, science, and religion as constant ministers, to whom has been opened in rarest degree the whole book of knowledge, persevere in a brutal policy belonging to another age, and utterly alien to that superior civilization which is so truly theirs?

There is another consideration, not only of justice, but of public law, which cannot be overcome. The people of these provinces are unwilling to be separated from France. This is enough. France cannot sell or transfer them against their consent. Consult the great masters, and you will find their concurring authority. Grotius, from whom on such a question there can be no appeal, adjudges: "In the alienation of a part of the sovereignty it is required *that the part which is to be alienated consent to the act.*" According to him, it must not be supposed "that the body should have the right of cutting off parts from itself and giving them into the authority of another."[1] Of the same opinion is Pufendorf, declaring: "The sovereign who attempts to transfer his kingdom to another by his sole authority does

[1] De Jure Belli et Pacis, tr. Whewell, Lib. II. Cap. 6, § 4.

an act in itself null and void, and not binding on his subjects. To make such a conveyance valid, the consent of the people is required, as well as of the prince."[1] Vattel crowns this testimony, when he adds, that a province or city, "abandoned and dismembered from the State, is not obliged to receive the new master proposed to be given it."[2] Before such texts, stronger than a fortress, the soldiers of Germany must halt.

Nor can it be forgotten how inconsistent is the guaranty of Dismemberment with that heroic passion for national unity which is the glory of Germany. National unity is not less the right of France than of Germany; and these provinces, though in former centuries German, and still preserving the German speech, belong to the existing unity of France, — unless, according to the popular song, the German's Fatherland extends

"Far as the German accent rings";

and then the conqueror must insist on Switzerland; and why not cross the Atlantic, to dictate laws in Pennsylvania and Chicago? But this same song has a better verse, calling that the German's Fatherland

"Where in the heart love warmly lies."

But in these coveted provinces it is the love for France, and not for Germany, which prevails.

GUARANTY OF DISARMAMENT.

The Guaranty of Dismemberment, when brought to the touchstone of the three essential conditions, is found wanting. Dismissing it as unsatisfactory, I come to

[1] De Jure Naturæ et Gentium, Lib. VIII. Cap. 5, § 9.
[2] Le Droit des Gens, Liv. I. Ch. 21, § 264.

that other guaranty where these conditions are all fulfilled, and we find security for Germany without offence to the just sentiments of France, and also a new safeguard to civilization. Against the Guaranty of Dismemberment I oppose the Guaranty of Disarmament. By Disarmament I mean the razing of the French fortifications and the abolition of the standing army, except that minimum of force required for purposes of police. How completely this satisfies the conditions already named is obvious. For Germany there would be on the side of France absolute repose, so that Count Bismarck need not fear another invasion, — while France, saved from intolerable humiliation, would herself be free to profit by the new civilization.

Nor is this guaranty otherwise than practical in every respect, and the more it is examined the more will its inestimable advantage be apparent.

1. There is, first, its most obvious *economy*, which is so glaring, that, according to a familiar French expression, "it leaps into the eyes." Undertaking even briefly to set it forth, I seem to follow the proverb and "show the sun with a lantern." According to the "Almanach de Gotha," the appropriations for the army of France, during the year of peace before the war, were 588,852, 970 francs,[1] — or about one hundred and seventeen millions of dollars. Give up the Standing Army and this considerable sum disappears from the annual budget. But this retrenchment represents only partially the prodigious economy. Beyond the annual outlay is the loss to the nation by the change of producers into non-producers. Admitting that in France the average annual production of a soldier usefully employed would

[1] Almanach de Gotha, 1870, p. 599.

be only fifty dollars, and multiplying this small allowance by the numbers of the Standing Army, you have another amount to be piled upon the military appropriations. Is it too much to expect that this surpassing waste shall be stopped? Must the extravagance born of war, and nursed by long tradition, continue to drain the resources of the land? Where is reason? Where humanity? A decree abolishing the Standing Army would be better for the French people, and more productive, than the richest gold-mine discovered in every department of France. Nor can imagination picture the fruitful result. I speak now only in the light of economy. Relieved from intolerable burden, industry would lift itself to unimagined labors, and society be quickened anew.

2. Beyond this economy, which need not be argued, is the positive *advantage, if not necessity,* of such change for France. I do not speak on general grounds applicable to all nations, but on grounds peculiar to France at the present moment. Emerging from a most destructive war, she will be subjected to enormous and unprecedented contributions of every kind. After satisfying Germany, she will find other obligations at home, — some pressing directly upon the nation, and others upon individuals. Beyond the outstanding pay of soldiers, requisitions for supplies, pensions for the wounded and the families of the dead, and other extraordinary liabilities accumulating as never before in the same time, there will be the duty of renewing that internal prosperity which has received such a shock; and here the work of restoration will be costly, whether to the nation or the individual. Revenue must be regained, roads and bridges repaired, markets supplied; nor can we

omit the large and multitudinous losses from ravage of fields, seizure of stock, suspension of business, stoppage of manufactures, interference with agriculture, and the whole terrible drain of war by which the people are impoverished and disabled. If to the necessary appropriation and expenditure for all these things is superadded the annual tax of a Standing Army, and that other draft from the change of producers into non-producers, plainly here is a supplementary burden of crushing weight. Talk of the last feather breaking the back of the camel, — but never was camel loaded down as France.

3. Beyond even these considerations of economy and advantage I put the transcendent, priceless benefit of Disarmament in the *assurance of peace.* Disarmament substitutes the constable for the soldier, and reduces the Standing Army to a police. The argument assumes, first, the needlessness of a Standing Army, and, secondly, its evil influence. Both of these points were touched at an early day by the wise Chancellor of England, Sir Thomas More, when, in his practical and personal Introduction to "Utopia," he alludes to what he calls the "bad custom" of keeping many servants, and then says: "In France there is yet a more pestiferous sort of people; for the whole country is full of soldiers, that are still kept up in time of peace, — if such a state of a nation can be called a peace." Then, proceeding with his judgment, the Chancellor holds up what he calls those "pretended statesmen" whose maxim is that "it is necessary for the public safety to have a good body of veteran soldiers ever in readiness." And after saying that these pretended statesmen "sometimes seek occasion for making war, that they may train up their

soldiers in the art of cutting throats," he adds, in words soon to be tested, "But France has learned, to its cost, how dangerous it is to feed such beasts."[1] It will be well, if France has learned this important lesson. The time has come to practise it.

All history is a vain word, and all experience is at fault, if large War Preparations, of which the Standing Army is the type, have not been constant provocatives of war. Pretended protectors against war, they have been real instigators to war. They have excited the evil against which they were to guard. The habit of wearing arms in private life exercised a kindred influence. So long as this habit continued, society was darkened by personal combat, street-fight, duel, and assassination. The Standing Army is to the nation what the sword was to the modern gentleman, the stiletto to the Italian, the knife to the Spaniard, the pistol to our slave-master, — furnishing, like these, the means of death; and its possessor is not slow to use it. In stating the operation of this system we are not left to inference. As France, according to Sir Thomas More, shows "how dangerous it is to feed such beasts," so does Prussia, in ever-memorable instance, which speaks now with more than ordinary authority, show precisely how the Standing Army may become the incentive to war. Frederick, the warrior king, is our witness. With honesty or impudence beyond parallel, he did not hesitate to record in his Memoirs, among the reasons for his war upon Maria Theresa, that, on coming to the throne, he found himself with "troops always ready to act." Voltaire, when called to revise the royal memoirs,

[1] Utopia, tr. Burnet, (London, 1845,) Book I. pp. 29, 30.

erased this confession, but preserved a copy;[1] so that by his literary activity we have this kingly authority for the mischief from a Standing Army. How complete a weapon was that army may be learned from Lafayette, who, in a letter to Washington, in 1786, after a visit to the King, described it thus: —

"Nothing can be compared to the beauty of the troops, to the discipline which reigns in all their ranks, to the simplicity of their movements, to the uniformity of their regiments. . . . . All the situations which can be supposed in war, all the movements which these must necessitate, have been by constant habit so inculcated in their heads, that all these operations are done almost mechanically."[2]

Nothing better has been devised since the Macedonian phalanx or the Roman legion. With such a weapon ready to his hands, the King struck Maria Theresa. And think you that the present duel between France and Germany could have been waged, had not both nations found themselves, like Frederick of Prussia, with "troops always ready to act"? It was the possession of these troops which made the two parties rush so swiftly to the combat. Is not the lesson perfect? Already individuals have disarmed. Civilization requires that nations shall do likewise.

Thus is Disarmament enforced on three several grounds: first, economy; secondly, positive advantage, if not necessity, for France; and, thirdly, assurance of peace. No other guaranty promises so much. Does any other guaranty promise anything beyond the acci-

[1] Brougham, Lives of Men of Letters, (London and Glasgow, 1856,) p. 59, — *Voltaire*. See also Voltaire, *Mémoires pour servir à la Vie de, écrits par lui-même*, (édit. 1784-89,) Tom. LXX. p. 279; also Frédéric II., *Histoire de mon Temps*, Œuvres Posthumes, (Berlin, 1789,) Tom. I. Part. I. p. 78.

[2] Mémoires, Tom. II. p. 133.

dent of force? Nor would France be alone. Dismissing to the arts of peace the large army victorious over Slavery, our Republic has shown how disarmament can be accomplished. The example of France, so entirely reasonable, so profitable, so pacific, and so harmonious with ours, would spread. Conquering Germany could not resist its influence. Nations are taught by example more than by precept, and either is better than force. Other nations would follow; nor would Russia, elevated by her great act of Enfranchisement, fail to seize her sublime opportunity. Popular rights, which are strongest always in assured peace, would have new triumphs. Instead of Trial by Battle for the decision of differences between nations, there would be peaceful substitutes, as Arbitration, or, it may be, a Congress of Nations, and the United States of Europe would appear above the subsiding waters. The old juggle of Balance of Power, which has rested like a nightmare on Europe, would disappear, like that other less bloody fiction of Balance of Trade, and nations, like individuals, would all be equal before the law. Here our own country furnishes an illustration. So long as slavery prevailed among us, there was an attempt to preserve what was designated balance of power between the North and South, pivoting on Slavery, — just as in Europe there has been an attempt to preserve balance of power among nations pivoting on War. Too tardily is it seen that this famous balance, which has played such a part at home and abroad, is but an artificial contrivance instituted by power, which must give place to a simple accord derived from the natural condition of things. Why should not the harmony which has begun at home be extended abroad? Practicable and beneficent here, it must be

the same there. Then would nations exist without perpetual and reciprocal watchfulness. But the first step is to discard the wasteful, oppressive, and pernicious provocative to war, which is yet maintained at such terrible cost. To-day this glorious advance is presented to France and Germany.

KING WILLIAM AND COUNT BISMARCK.

Two personages at this moment hold in their hands the great question teeming with a new civilization. Honest and determined, both are patriotic rather than cosmopolitan or Christian, believing in Prussia rather than Humanity. And the patriotism so strong in each keeps still the early tinge of iron. I refer to King William and his Prime-Minister, Count Bismarck.

More than any other European sovereign, William of Prussia possesses the infatuation of "divine right." He believes that he was appointed by God to be King — differing here from Louis Napoleon, who in a spirit of compromise entitled himself Emperor "by the grace of God and the national will." This infatuation was illustrated at his coronation in ancient Königsberg, — first home of Prussian royalty, and better famous as birthplace and lifelong home of Immanuel Kant, — when the King enacted a scene of melodrama which might be transferred from the church to the theatre. No other person was allowed to place the crown on his royal head. Lifting it from the altar, where it rested, he placed it on his head himself, in sign that he held it from Heaven and not from man, and next placed another on the head of the Queen, in sign that her dignity was derived from him. Then, turning round, he grasped

the sword of state, in testimony of readiness to defend the nation. Since the Battle of Sadowa, when the Austrian Empire was so suddenly shattered, he has believed himself providential sword-bearer of Germany, destined, perhaps, to revive the old glories of Barbarossa. His habits are soldierly, and, notwithstanding his seventy-three winters, he continues to find pleasure in wearing the spiked helmet of the Prussian camp. Republicans smile when he speaks of "my army," "my allies," and "my people"; but this egotism is the natural expression of the monarchical character, especially where the monarch believes that he holds by "divine right." His public conduct is in harmony with these conditions. He is a Protestant, and rules the land of Luther, but he is no friend to modern Reform. The venerable system of war and prerogative is part of his inheritance handed down from fighting despots, and he evidently believes in it.

His Minister, Count Bismarck, is the partisan of "divine right," and, like the King, regards with satisfaction that hierarchical feudalism from which they are both derived. He is noble, and believes in nobility. He believes also in force, as if he had the blood of the god Thor. He believes in war, and does not hesitate to throw its "iron dice," insisting upon the rigors of the game. As the German question began to lower, his policy was most persistent. "Not by speeches and votes of the majority," he said in 1862, "are the great questions of the time decided, — that was the error of 1848 and 1849, — *but by iron and blood.*"[1] Thus expli-

[1] "Nicht durch Reden und Majoritätsbeschlüsse werden die grossen Fragen der Zeit entschieden, — das ist der Fehler von 1848 und 1849 gewesen, — sondern durch Eisen und Blut." — *Aeusserungen in der Budyetkommission*, September, 1862.

cit was he. Having a policy, he became its representative, and very soon thereafter controlled the counsels of his sovereign, coming swiftly before the world; and yet his elevation was tardy. Born in 1815, he did not enter upon diplomacy until 1851, when thirty-six years of age, and only in 1862 became Prussian Minister at Paris, whence he was soon transferred to the Cabinet at Berlin as Prime-Minister. Down to that time he was little known. His name is not found in any edition of the bulky French Dictionary of Contemporaries,[1] not even its "Additions and Rectifications," until the Supplement of 1863. But from this time he drew so large a share of public attention that the contemporary press of the world became the dictionary where his name was always found. Nobody doubts his intellectual resources, his courage, or strength of will; but it is felt that he is naturally hard, and little affected by human sympathy. Therefore is he an excellent war minister. It remains to be seen if he will do as much for peace. His one idea has been the unity of Germany under the primacy of Prussia; and here he encountered Austria, as he now encounters France. But in that larger unity where nations will be conjoined in harmony he can do less, so long at least as he continues a fanatic for kings and a cynic towards popular institutions.

Such is the King, and such his Minister. I have described them that you may see how little help the great ideas already germinating from bloody fields will receive from them. In this respect they are as one.

[1] Vapereau, Dictionnaire Universel des Contemporains.

TWO INFLUENCES *VERSUS* WAR SYSTEM.

BEYOND the most persuasive influence of civilization, pleading, as never before, with voice of reason and affection, that the universal tyrant and master-evil of Christendom, the War System, may cease, and the means now absorbed in its support be employed for the benefit of the Human Family, there are two special influences which cannot be without weight at this time. The first is German authority in the writings of philosophers, by whom Germany rules in thought; and the second is the uprising of the working-men: both against war as acknowledged arbiter between nations, and insisting upon peaceful substitutes.

AUTHORITY OF THE GERMAN MIND.

MORE than any other nation Germany has suffered from war. Without that fatal gift of beauty, "a dowry fraught with never-ending pain," which tempted the foreigner to Italy, her lot has been hardly less wretched; but Germany has differed from Italy in the successful bravery with which she repelled the invader. Tacitus says of her people, that, "surrounded by numerous and very powerful nations, they are safe, not by obsequiousness, but by battles and braving danger";[1] and this same character, thus epigrammatically presented, has continued ever since. Yet this was not without that painful experience which teaches what Art has so often attempted to picture and Eloquence to describe, "The Miseries of War." Again in that same

[1] "Plurimis ac valentissimis nationibus cincti, non per obsequium, sed prœliis et periclitando tuti sunt." — *Germania*, Cap. XL.

fearless spirit has Germany driven back the invader, while War is seen anew in its atrocious works. But it was not merely the Miseries of War which Germans regarded. The German mind is philosophical and scientific, and it early saw the irrational character of the War System. It is well known that Henry the Fourth of France conceived the idea of Harmony among Nations without War; and his plan was taken up and elaborated in numerous writings by the good Abbé de Saint-Pierre, so that he made it his own. Rousseau, in his treatise on the subject,[1] popularized Saint-Pierre. But it is to Germany that we must look for the most complete and practical development of this beautiful idea. If French in origin, it is German now in authority.

The greatest minds in Germany have dealt with this problem, and given to its solution the exactness of science. No greater have been applied to any question. Foremost in this list, in time and in fame, is Leibnitz, that marvel of human intelligence, second, perhaps, to none in history, who, on reading the "Project of Perpetual Peace" by the Abbé de Saint-Pierre, pronounced this judgment: "I have read it with attention, and am persuaded that such a project is on the whole feasible, and that its execution would be one of the most useful things in the world."[2] Thus did Leibnitz affirm its feasibility and its immense usefulness. Other minds followed, in no apparent concert, but in unison. I may be pardoned, if, without being too bibliographical, I name some of these witnesses.

[1] J. J. Rousseau, Extrait du Projet de Paix Perpétuelle de M. l'Abbé de Saint-Pierre; avec Lettre à M. de Bastide, et Jugement sur la Paix Perpétuelle: Œuvres, (édit. 1788–93,) Tom. VII. pp. 339–418.

[2] Observations sur le Projet d'une Paix Perpétuelle de M. l'Abbé de Saint-Pierre: Opera, ed. Dutens, (Genevæ, 1768,) Tom. V. p. 56.

At Göttingen, renowned for its University, the question was opened, at the close of the Seven Years' War in 1763, in a work by Totze, whose character appears in its title, "Permanent and Universal Peace in Europe, according to the Plan of Henry IV."[1] At Leipsic, also the seat of a University, the subject was presented in 1767 by Lilienfeld, in a treatise of much completeness, under the name of "New Constitution for States,"[2] where, after exposing the wretched chances of the battle-field and the expense of armaments in time of peace, the author urges submission to Arbitrators, unless a Supreme Tribunal is established to administer International Law and to judge between nations. In 1804 appeared another work, of singular clearness and force, by Karl Schwab, entitled "Of Unavoidable Injustice,"[3] where the author describes what he calls the Universal State, in which nations will be to each other as citizens in the Municipal State. He is not so visionary as to imagine that justice will always be inviolate between nations in the Universal State, for it is not always so between citizens in the Municipal State; but he confidently looks to the establishment between nations of the rules which now subsist between citizens, whose differences are settled peaceably by judicial tribunals.

These works, justly important for the light they shed, and as expressions of a growing sentiment, are eclipsed in the contributions of the great teacher, Immanuel Kant, who, after his fame in philosophy was established, so that his works were discussed and expounded not only throughout Germany, but in other lands, in 1795

[1] Der ewige und allgemeine Friede in Europa, nach dem Entwurf Heinrichs IV.

[2] Neues Staatsgebäude.

[3] Ueber das unvermeidliche Unrecht.

gave to the world a treatise entitled "On Perpetual Peace,"[1] which was promptly translated into French, Danish, and Dutch. Two other works by him attest his interest in the subject, the first entitled "Idea for a General History in a Cosmopolitan View,"[2] and the other, "Metaphysical Elements of Jurisprudence."[3] His grasp was complete. A treaty of peace which tacitly acknowledges the right to wage war, as all treaties now do, according to Kant is nothing more than a truce. An individual war may be ended, but not the *state of war;* so that, even after cessation of hostilities, there will be constant fear of their renewal, while the armaments known as Peace Establishments will tend to provoke them. All this should be changed, and nations should form one comprehensive Federation, which, receiving other nations within its fold, will at last embrace the civilized world; and such, in the judgment of Kant, was the irresistible tendency of nations. To a French poet we are indebted for the most suggestive term, "United States of Europe";[4] but this is nothing but the Federation of the illustrious German philosopher. Nor was Kant alone among his great contemporaries. That other philosopher, Fichte, whose name at the time was second only to that of Kant, in his "Groundwork of the Law of Nature,"[5] published in 1796, also urges a Federation of Nations, with an established tribunal to which all should submit. Much better for civilization, had the King at Königsberg, in-

[1] Zum ewigen Frieden.

[2] Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht.

[3] Metaphysische Anfangsgründe der Rechtslehre.

[4] Victor Hugo, Discours d'Ouverture du Congrès de la Paix à Paris, 21 Août 1849 : Treize Discours, (Paris, 1851,) p. 19.

[5] Grundlage des Naturrechts.

stead of grasping the sword, hearkened to the voice of Kant, renewed by Fichte.

With these German oracles in its support, the cause cannot be put aside. Even in the midst of war, Philosophy will be heard, especially when she speaks words of concurring authority that touch a chord in every heart. Leibnitz, Kant, and Fichte, a mighty triumvirate of intelligence, unite in testimony. As Germany, beyond any other nation, has given to the idea of Organized Peace the warrant of philosophy, it only remains now that she should insist upon its practical application. There should be no delay. Long enough has mankind waited while the river of blood flowed on.

UPRISING OF WORKING-MEN.

THE working-men of Europe, not excepting Germany, respond to the mandate of Philosophy, and insist that the War System shall be abolished. At public meetings, in formal resolutions and addresses, they have declared war against War, and they will not be silenced. This is not the first time that working-men have made themselves heard for international justice. I cannot forget, that, while Slavery was waging war against our nation, the working-men of Belgium in public meeting protested against that precocious Proclamation of Belligerent Rights by which the British Government gave such impulse to the Rebellion; and now, in the same spirit, and for the sake of true peace, they declare themselves against that War System by which the peace of nations is placed in such constant jeopardy. They are right; for nobody suffers in war as the working-man, whether in property or in person. For him war is a

ravening monster, devouring his substance, and changing him from citizen to military serf. As victim of the War System he is entitled to be heard.

The working-men of different countries have been organizing in societies, of which it is difficult at present to tell the number and extent. It is known that these societies exist in Germany, France, Spain, Italy, and England, as well as in our own country, and that they have in some measure an international character. In France, before the war, there were 433,785 men in the organization, and in Germany 150,000.[1] Yet this is but the beginning.

At the menace of the present war, all these societies were roused. The society known as the International Working-Men's Association, by their General Council, issued an address, dated at London, protesting against it as a war of dynasties, denouncing Louis Napoleon as an enemy of the laboring classes, and declaring "the war-plot of July, 1870, but an amended edition of the *coup d'état* of December, 1851." The address then testifies generally against war, saying, —

"They feel deeply convinced, that, whatever turn the impending horrid war may take, *the alliance of the working classes of all countries will ultimately kill war.*" [2]

At the same time the Paris branch of the International Association put forth a manifesto addressed "To the Working-Men of all Countries," from which I take these passages: —

[1] La Solidarité, 25 Juin 1870, — as cited by Testu, *L'Internationale*, (7ème édit.,) p. 275.

[2] The General Council of the International Working-Men's Association on the War, (London, July 23, 1870,) p. iv.

"Once more, under the pretext of European equilibrium, of national honor, political ambitions menace the peace of the world.

"French, German, Spanish working-men! *let our voices unite in a cry of reprobation against war!*

. . . . . .

"War for a question of preponderance, or of dynasty, can, in the eyes of working-men, be nothing but a criminal absurdity.

"In response to the warlike acclamations of those who exonerate themselves from the impost of blood, or who find in public misfortunes a source of new speculations, we protest, — we who wish for peace, work, and liberty.

. . . . . .

"Brothers of Germany! . . . . our divisions would only bring about *the complete triumph of despotism on both sides of the Rhine.*

. . . . . .

"Working-men of all countries! whatever may be the result of our common efforts, we, members of the International Association of Working-Men, who know no frontiers, we send you, as a pledge of indissoluble solidarity, the good wishes and the salutations of the working-men of France."[1]

To this appeal, so full of truth, touching to the quick the pretence of balance of power and questions of dynasty as excuses for war, and then rising to "a cry of reprobation against war," the Berlin branch of the International Association replied: —

"We join with heart and hand in your protestation. . . . . Solemnly we promise you that neither the noise of drums nor the thunder of cannon, neither victory nor defeat, shall turn us aside from our work for the union of the proletaries of all countries."[2]

[1] Testu, L'Internationale, pp. 279–80. The General Council of the International Working-Men's Association on the War, p. ii.

[2] Testu, pp. 284–85. The General Council, etc., p. iii.

Then came a meeting of delegates at Chemnitz, in Saxony, representing fifty thousand Saxon working-men, which put forth the following hardy words: —

"We are happy to grasp the fraternal hand stretched out to us by the working-men of France. . . . . Mindful of the watchword of the International Working-Men's Association, *Proletarians of all countries, unite!* we shall never forget that the working-men of all countries are our friends, and the despots of all countries our enemies." [1]

Next followed, at Brunswick, in Germany, on the 16th of July, — the very day after the reading of the war document at the French tribune, and the "light heart" of the Prime-Minister, — a mass meeting of the working-men there, which declared its full concurrence with the manifesto of the Paris branch, spurned the idea of national antagonism to France, and wound up with these solid words: —

"We are enemies of all wars, but above all of dynastic wars." [2]

The whole subject is presented with admirable power in an address from the Workmen's Peace Committee to the Working-Men of Great Britain and Ireland, duly signed by their officers. Here are some of its sentences: —

"Without us war must cease; for without us standing armies could not exist. It is out of our class chiefly that they are formed."

"We would call upon and implore the peoples of France and Germany, in order to enable their own rulers to realize

1 The General Council of the International Working-Men's Association on the War, p. iii.

2 Ibid.

these their peace-loving professions, *to insist upon the abolition of standing armies,* as both the source and means of war, nurseries of vice, and locust-consumers of the fruits of useful industry."

"What we claim and demand — what we would implore the peoples of Europe to do, without regard to Courts, Cabinets, or Dynasties — is *to insist upon Arbitration as a substitute for war,* with peace and its blessings for them, for us, for the whole civilized world." [1]

The working-men of England responded to this appeal, in a crowded meeting at St. James's Hall, London, where all the speakers were working-men and representatives of the various handicrafts, except the Chairman, whose strong words found echo in the intense convictions of the large assemblage: —

"One object of this meeting is to make the horror universally inspired by the enormous and cruel carnage of this terrible war the groundwork for appealing to the working classes and the people of all other European countries to join in protesting against war altogether, [*prolonged cheers,*] as the shame of Christendom, and direst curse and scourge of the human race. Let the will of the people sweep away war, which cannot be waged without them. ['*Hear!*'] Away with enormous standing armies, ['*Hear!*'] the nurseries and instruments of war, — nurseries, too, of vice, and crushing burdens upon national wealth and prosperity! Let there go forth from the people of this and other lands one universal and all-overpowering cry and demand for the blessings of peace!" [2]

At this meeting the Honorary Secretary of the Workmen's Peace Committee, after announcing that the work-

[1] Herald of Peace for 1870, September 1st, pp. 101 - 2.
[2] Ibid., October 1st, p. 125.

ing-men of upwards of three hundred towns had given their adhesion to the platform of the Committee, thus showing a determination to abolish war altogether, moved the following resolution, which was adopted: —

"That war, especially with the present many fearful contrivances for wholesale carnage and destruction, is repugnant to every principle of reason, humanity, and religion; and this meeting earnestly invites all civilized and Christian peoples to insist upon the abolition of standing armies, and the settlement by arbitration of all international disputes." [1]

Thus clearly is the case stated by the Working-Men, now beginning to be heard; and the testimony is reverberated from nation to nation. They cannot be silent hereafter. I confidently look to them for important co-operation in this great work of redemption. Could my voice reach them now, wherever they may be, in that honest toil which is the appointed lot of man, it would be with words of cheer and encouragement. Let them proceed until civilization is no longer darkened by war. In this way will they become not only saviours to their own households, but benefactors of the whole Human Family.

ABOLITION OF THE WAR SYSTEM.

Such is the statement, with its many proofs, by which war is exhibited as the Duel of Nations, being the Trial by Battle of the Dark Ages. You have seen how nations, under existing International Law, to which all are parties, refer their differences to this insensate arbitrament, — and then how, in our day and before our own eyes, two nations eminent in civilization have furnished

[1] Herald of Peace for 1870, October 1st, p. 125.

an instance of this incredible folly, waging together a world-convulsing, soul-harrowing, and most barbarous contest. All ask how long the direful duel will be continued. Better ask, How long will be continued that War System by which such a duel is authorized and regulated among nations? When will this legalized, organized crime be abolished? When at last will it be confessed that the Law of Right is the same for nations as for individuals, so that, if Trial by Battle be impious for individuals, it is so for nations likewise? Against it are Reason and Humanity, pleading as never before, — Economy, asking for mighty help, — Peace, with softest voice praying for safeguard, — and then the authority of Philosophy, speaking by some of its greatest masters, — all reinforced by the irrepressible, irresistible protest of working-men in different nations.

Precedents exist for the abolition of this duel, so completely in point, that, according to the lawyer's phrase, they "go on all fours" with the new case. Two of these have been already mentioned: first, when, at the Diet of Worms, in 1495, the Emperor Maximilian proclaimed a permanent peace throughout Germany, and abolished the "liberty" of Private War; and, secondly, when, in 1815, the German Principalities stipulated "under no pretext to make war upon one another, or to pursue their differences by force of arms."[1] But first in time, and perhaps in importance, was the great Ordinance of St. Louis, King of France, promulgated at a Parliament in 1260, where he says: "*We forbid battles* [*i.e.* TRIALS BY BATTLE] *to all persons throughout our dominions, ... and in place of battles we put proofs by witnesses. . . . .* AND THESE BATTLES WE ABOLISH IN

[1] See, *ante*, p. 181.

OUR DOMINIONS FOREVER."[1] These at the time were great words, and they continue great as an example. Their acceptance by any two nations would begin the work of abolition, which would be completed on their adoption by a Congress of Nations, taking from war its existing sanction.

THE WORLD A GLADIATORIAL AMPHITHEATRE.

THE growing tendencies of mankind have been quickened by the character of the present war, and the unexampled publicity with which it has been waged. Never before were all nations, even those separated by great spaces, whether of land or ocean, the daily and excited spectators of the combat. The vast amphitheatre within which the battle is fought, with the whole heavens for its roof, is coextensive with civilization itself. The scene in that great Flavian Amphitheatre, the famous Colosseum, is a faint type of what we are witnessing; but that is not without its lesson. Bloody games, where human beings contended with lions and tigers, imported for the purpose, or with each other, constituted an institution of ancient Rome, only mildly rebuked by Cicero,[2] and adopted even by Titus, in that short reign so much praised as unspotted by the blood of the citizen.[3] One

[1] "Nous deffendons à tous les batailles par tout nostre demengne, ... et en lieu des batailles nous meton prüeves de tesmoins. . . . . Et ces batailles nous ostons en nostre demaigne à toûjours." — *Recueil Général des Anciennes Lois Françaises*, par Jourdan, etc., (Paris, 1822-33,) Tom. I. pp. 283-90.

[2] "Crudele gladiatorum spectaculum et inhumanum nonnullis videri solet: et haud scio an ita sit, ut nunc fit." — *Tusculanæ Quæstiones*, Lib. II. Cap. XVII. 41.

[3] Suetonius: *Titus*, Cap. IX. Merivale, History of the Romans under the Empire, (London, 1862,) Ch. LX., Vol. VII. p. 56.

hundred thousand spectators looked on, while gladiators from Germany and Gaul joined in ferocious combat; and then, as blood began to flow, and victim after victim sank upon the sand, the people caught the fierce contagion. A common ferocity ruled the scene. As Christianity prevailed, the incongruity of such an institution was widely felt; but still it continued. At last an Eastern monk, moved only by report, journeyed a long way to protest against the impiety. With noble enthusiasm he leaped into the arena, where the battle raged, in order to separate the combatants. He was unsuccessful, and paid with life the penalty of his humanity.[1] But the martyr triumphed where the monk had failed. Shortly afterwards, the Emperor Honorius, by solemn decree, put an end to this horrid custom. "The first Christian Emperor," says Gibbon, "may claim the honor of the first edict which condemned the art and amusement of shedding human blood."[2] Our amphitheatre is larger than that of Rome; but it witnesses scenes not less revolting; nor need any monk journey a long way to protest against the impiety. That protest can be uttered by every one here at home. We are all spectators; and since by human craft the civilized world has become one mighty Colosseum, with place for everybody, may we not insist that the bloody games by which it is yet polluted shall cease, and that, instead of mutual-murdering gladiators filling the near-brought scene with death, there shall be a harmonious people, of different nations, but one fellowship, vying together only in works of industry and art, inspired and exalted by a divine beneficence?

[1] St. Telemachus, A. D. 404. Gibbon, Decline and Fall of the Roman Empire, ed. Milman, (London, 1846,) Ch. XXX., Vol. III. p. 70. Smith, Dict. Gr. and Rom. Biog. and Myth., art. TELEMACHUS.

[2] Decline and Fall of the Roman Empire, *ubi supra*.

In presenting this picture I exaggerate nothing. How feeble is language to depict the stupendous barbarism! How small by its side the bloody games which degraded ancient Rome! How pygmy the one, how colossal the other! Would you know how the combat is conducted? Here is the briefest picture of the arena by a looker-on: —

"Let your readers fancy masses of colored rags glued together with blood and brains, and pinned into strange shapes by fragments of bones, — let them conceive men's bodies without heads, legs without bodies, heaps of human entrails attached to red and blue cloth, and disembowelled corpses in uniform, bodies lying about in all attitudes, with skulls shattered, faces blown off, hips smashed, bones, flesh, and gay clothing all pounded together as if brayed in a mortar extending for miles, not very thick in any one place, but recurring perpetually for weary hours, — and then they cannot, with the most vivid imagination, come up to the sickening reality of that butchery." [1]

Such a sight would have shocked the Heathen of Rome. They could not have looked on while the brave gladiator was thus changed into a bloody hash; least of all could they have seen the work of slaughter done by machinery. Nor could any German gladiator have written the letter I proceed to quote from a German soldier: —

"I do not know how it is, but one wholly forgets the danger one is in, and thinks only of the effect of one's own bullets, rejoicing like a child at the sight of the enemy falling like skittles, and having scarcely a compassionate glance to spare for the comrade falling at one's side. One ceases to be a human being, and turns into a brute, a complete brute."

[1] Scene after the Battle of Sedan: Herald of Peace for 1870, October 1st, p. 121.

Plain confession! And yet the duel continues. Nor is there death for the armed man only. Fire mingles with slaughter, as at Bazeilles. Women and children are roasted alive, filling the air with suffocating odor, while the maddened combatants rage against each other. All this is but part of the prolonged and various spectacle, where the scene shifts only for some other horror. Meanwhile the sovereigns of the world sit in their boxes, and the people everywhere occupy the benches.

PERIL FROM THE WAR SYSTEM.

THE duel now pending teaches the peril from continuance of the present system. If France and Germany can be brought so suddenly into collision on a mere pretext, what two nations are entirely safe? Where is the talisman for their protection? None, surely, except Disarmament, which, therefore, for the interest of all nations, should be commenced. Prussia is now an acknowledged military power, armed "in complete steel," — but at what cost to her people, if not to mankind! Military citizenship, according to Prussian rule, is military serfdom, and on this is elevated a military despotism of singular grasp and power, operating throughout the whole nation, like martial law or a state of siege. In Prussia the law tyrannically seizes every youth of twenty, and, no matter what his calling or profession, compels him to military service for seven years. Three years he spends in active service in the regular army, where his life is surrendered to the trade of blood; then for four years he passes to the reserve, where he is subject to periodic military drills; then for five years longer to the *Landwehr*, or militia, with lia-

bility to service in the *Landsturm*, in case of war, until sixty. Wherever he may be in foreign lands, his military duty is paramount.

But if this system be good for Prussia, then must it be equally good for other nations. If this economical government, with education for all, subordinates the business of life to the military drill, other nations will find too much reason for doing the same. Unless the War System is abandoned, all must follow the successful example, while the civilized world becomes a busy camp, with every citizen a soldier, and with all sounds swallowed up in the tocsin of war. Where, then, are the people? Where are popular rights? Montesquieu has not hesitated to declare that the peril to free governments proceeds from armies, and that this peril is not corrected even by making them depend directly on the legislative power. This is not enough. The armies must be reduced in number and force.[1] Among his papers, found since his death, is the prediction, "France will be ruined by the military."[2] It is the privilege of genius like that of Montesquieu to lift the curtain of the future; but even he did not see the vastness of suffering in store for his country through those armies against which he warned. For years the engine of despotism at home, they became the sudden instrument of war abroad. Without them Louis Napoleon could not have made himself Emperor, nor could he have hurried France into the present duel. If needed in other days, they are not needed now. The War System, always barbarous, is an anachronism, full of peril both to peace and liberal institutions.

[1] De l'Esprit des Lois, Liv. XI. Ch. 6.

[2] "La France se perdra par les gens de guerre." — *Pensées Diverses, — Variétés:* Œuvres Mêlées et Posthumes, (Paris, 1807, Didot,) Tom. II. p. 138.

PEACE.

An army is a despotism; military service is a bondage; nor can the passion for arms be reconciled with a true civilization. The present failure to acknowledge this incompatibility is only another illustration how the clear light of truth is discolored and refracted by an atmosphere where the cloud of war still lingers. Soon must this cloud be dispersed. From war to peace is a change indeed; but Nature herself testifies to change. Sirius, brightest of all the fixed stars, was noted by Ptolemy as of reddish hue,[1] and by Seneca as redder than Mars;[2] but since then it has changed to white. To the morose remark, whether in the philosophy of Hobbes or the apology of the soldier, that man is a fighting animal and that war is natural, I reply, — Natural for savages rejoicing in the tattoo, natural for barbarians rejoicing in violence, but not natural for man in a true civilization, which I insist is the natural state to which he tends by a sure progression. The true state of Nature is not war, but peace. Not only every war, but every recognition of war as the mode of determining international differences, is evidence that we are yet barbarians, — and so also is every ambition for empire founded on force, and not on the consent of the people. A ghastly, bleeding, human head was discovered by the early Romans, as they dug the foundations of that Capitol which finally swayed the world.[3] That ghastly, bleeding, human head is the fit symbol of military power.

[1] Almagest, ed. et tr. Halma, (Paris, 1816-20,) Tom. II. pp. 72, 73.

[2] Naturales Quæstiones, Lib. I. Cap. 1.

[3] Dionysius Halicarnassensis, Antiquitates Romanæ, Lib. IV. Capp. 59-61.

Let the War System be abolished, and, in the glory of this consummation, how vulgar all that comes from battle! By the side of this serene, beneficent civilization, how petty in its pretensions is military power! how vain its triumphs! At this moment the great general who has organized victory for Germany is veiled, and his name does not appear even in the military bulletins. Thus is the glory of arms passing from sight, and battle losing its ancient renown. Peace does not arrest the mind like war. It does not glare like battle. Its operations, like those of Nature, are gentle, yet sure. It is not the tumbling, sounding cataract, but the tranquil, fruitful river. Even the majestic Niagara, with thunder like war, cannot compare with the peaceful plains of water which it divides. How easy to see that the repose of nations, like the repose of Nature, is the great parent of the most precious bounties vouchsafed by Providence! Add Peace to Liberty, —

"And with that virtue, every virtue lives."

As peace is assured, the traditional sensibilities of nations will disappear. Their frontiers will no longer frown with hostile cannon, nor will their people be nursed to hate each other. By ties of constant fellowship will they be interwoven together, no sudden trumpet waking to arms, no sharp summons disturbing the uniform repose. By steam, by telegraph, by the press, have they already conquered time, subdued space, — thus breaking down old walls of partition by which they have been separated. Ancient example loses its influence. The prejudices of another generation are removed, and the old geography gives place to a new. The heavens are divided into constellations, with names from beasts, or from some form of brute force, — as Leo,

Taurus, Sagittarius, and Orion with his club; but this is human device. By similar scheme is the earth divided. But in the sight of God there is one Human Family without division, where all are equal in rights; and the attempt to set up distinctions, keeping men asunder, or in barbarous groups, is a practical denial of that great truth, religious and political, the Brotherhood of Man. The Christian's Fatherland is not merely the nation in which he was born, but the whole earth appointed by the Heavenly Father for his home. In this Fatherland there can be no place for unfriendly boundaries set up by any, — least of all, place for the War System, making nations as hostile camps.

At Lassa, in Thibet, there is a venerable stone in memory of the treaty between the courts of Thibet and China, as long ago as 821, bearing an inscription worthy of a true civilization. From Eastern story learn now the beauty of peace. After the titles of the two august sovereigns, the monument proceeds: "These two wise, holy, spiritual, and accomplished princes, foreseeing the changes hidden in the most distant futurity, touched with sentiments of compassion towards their people, and not knowing, in their beneficent protection, any difference between their subjects and strangers, have, after mature reflection and by mutual consent, resolved to give peace to their people. . . . . In perfect harmony with each other, they will henceforth be good neighbors, and will do their utmost to draw still closer the bonds of union and friendship. Henceforward the two empires of Han (China) and Pho (Thibet) shall have fixed boundaries. . . . . In preserving these limits, the respective parties shall not endeavor to injure each other; they shall not attack each other in arms,

or make any more incursions beyond the frontiers now determined." Then declaring that the two "must reciprocally exalt their virtues and banish forever all mistrust between them, that travellers may be without uneasiness, that the inhabitants of the villages and fields may live at peace, and that nothing may happen to cause a misunderstanding," the inscription announces, in terms doubtless Oriental: "This benefit will be extended to future generations, and the voice of love (towards its authors) will be heard wherever the splendor of the sun and the moon is seen. The Pho will be tranquil in their kingdom, and the Han will be joyful in their empire."[1] Such is the benediction which from early times has spoken from one of the monuments erected by the god Terminus. Call it Oriental; would it were universal! While recognizing a frontier, there is equal recognition of peace as the rule of international life.

THE REPUBLIC.

In the abolition of the War System the will of the people must become all-powerful, exalting the Republic to its just place as the natural expression of citizenship. Napoleon has been credited with the utterance at St. Helena of the prophecy, that "in fifty years Europe would be Republican or Cossack."[2] Evidently Europe

[1] Travels of the Russian Mission through Mongolia to China, and Residence in Peking, in 1820-21, by George Timkowski, Vol. I. pp. 460-64.

[2] See the *New York Times* of August 11, 1870, where the reputed prophecy is cited in these terms, in a letter of the 27th July from the London correspondent of that journal, with remarks indicating an expectation of its fulfilment in the results of the present war. This famous saying has been variously represented; but the following are its original terms, as recorded at the time by Las Cases, to whom it was addressed in conversation,

will not be Cossack, unless the Cossack is already changed to Republican, — as well may be, when it is known, that, since the great act of Enfranchisement, in February, 1861, by which twenty-three millions of serfs were raised to citizenship, with the right to vote, fifteen thousand three hundred and fifty public schools have been opened in Russia. A better than Napoleon, who saw mankind with truer insight, Lafayette, has recorded a clearer prophecy. At the foundation of the monument on Bunker Hill, on the semi-centennial anniversary of the battle, 17th June, 1825, our much-honored national guest gave this toast: "Bunker Hill, and the holy resistance to oppression, which has already enfranchised the American hemisphere. The next half-century Jubilee's toast shall be, — *To Enfranchised Europe.*" [1] The close of that half-century, already so prolific, is at hand. Shall it behold the great Jubilee with all its vastness of promise accomplished? Enfranchised Europe, foretold by Lafayette, means not only the Republic for all, but Peace for all; it means the United States of Europe, with the War System abolished. Against that little faith through which so much fails in life, I declare my unalterable conviction, that "government of the people, by the people, and for the people" — thus simply described by Abraham Lin-

and as authenticated by the Commission appointed by Louis Napoleon for the collection and publication of the matters now composing the magnificent work entitled "Correspondance de Napoléon Ier":—

"*Dans l'état actuel des choses, avant dix ans,* toute l'Europe *peut être* cosaque, ou toute en république." — Las Cases, *Mémorial de Sainte-Hélène,* (Réimpression de 1823 et 1824,) Tom. III. p. 111, — Journal, 18 Avril 1816. *Correspondance de Napoléon Ier,* (Paris, 1858-69,) Tom. XXXII. p. 326.

[1] Columbian Centinel, June 18, 1825.

coln[1] — is a necessity of civilization, not only because of that republican equality without distinction of birth which it establishes, but for its assurance of permanent peace. All privilege is usurpation, and, like Slavery, a state of war, relieved only by truce, to be broken by the people in their might. To the people alone can mankind look for the repose of nations; but the Republic is the embodied people. All hail to the Republic, equal guardian of all, and angel of peace!

Our own part is simple. It is, first, to keep out of war, — and, next, to stand firm in those ideas which are the life of the Republic. Peace is our supreme vocation. To this we are called. By this we succeed. Our example is more than an army. But not on this account can we be indifferent, when Human Rights are assailed or republican institutions are in question. Garibaldi asks for a "word,"[2] that easiest expression of power. Strange will it be, when that is not given. To the Republic, and to all struggling for Human Rights, I give word, with heart on the lips. Word and heart I give. Nor would I have my country forget at any time, in the discharge of its transcendent duties, that, since the rule of conduct and of honor is the same for nations as for individuals, the greatest nation is that which does most for Humanity.

[1] Address at the Consecration of the National Cemetery at Gettysburg, November 19, 1863: McPherson's Political History of the United States during the Great Rebellion, p. 606.

[2] "The cause of Liberty in Italy needs the *word* of the United States Government, which would be more powerful in its behalf than that of any other." — *Message to Mr. Sumner from Caprera*, May 24, 1869.

THE PATRIOT DEAD AT ARLINGTON.

SPEECH IN THE SENATE, ON A JOINT RESOLUTION TO REMOVE THEIR REMAINS, DECEMBER 13, 1870.

MR. MCCREERY, of Kentucky, asked leave to introduce a Joint Resolution, providing for the return of the ground at Arlington to the family of General Robert E. Lee, "and if graveyards have been established on the land, then the Committee shall ascertain and report the number of interments, on what terms a suitable spot for a cemetery can be purchased in the neighborhood, and the probable cost of removing the bodies to the new place of sepulture."

On the question, "Will the Senate grant leave to introduce the Joint Resolution?" Mr. Edmunds, of Vermont, demanded the yeas and nays, when a debate ensued, in which Mr. Sumner spoke as follows: —

MR. PRESIDENT, — Being called to vote on the pending motion, I make haste to say that I wish on this occasion to apply the Parliamentary Law in its strongest form. Whatever rigors it may have against propositions inopportune or offensive in character must be applied now, or never be invoked again; for never before in this Chamber was there similar occasion for these rigors. Therefore shall I vote for the most summary disposition of this joint resolution.

Beyond this, perhaps, there is no occasion for remark, especially when I consider how eloquent Senators have already characterized the proposition and the traitor it seeks to commemorate. I am not disposed to speak of General Lee. It is enough to say that he stands high

on the catalogue of those who have imbrued their hands in their country's blood. I hand him over to the avenging pen of History.

But there is one practical remark that I would make. I would call the attention of the Senate to this proposition in another aspect. We all know the political associations of the honorable Senator who introduces it. Must we not regard this joint resolution as revealing the sentiments of his associates? Does it not prefigure the policy they would establish, should they obtain power, as threatened by the Senator from Delaware, [Mr. SAULSBURY,] as threatened by other Senators and by other associates of these Senators? Do we not see here the policy that would be established, — a policy which would take the old Rebellion by the hand and install it in the high places of power, — in the Executive Mansion, — in these Halls of Congress?

Now, Sir, could I make my voice heard from one end of this country to the other, from Massachusetts to Louisiana, it would be to warn against that political combination which shows itself now in the proposition of the Senator from Kentucky. Take warning, I would say to my fellow-countrymen everywhere, not only at the South, but at the North, but especially at the South, that the political party with which the Senator is associated, should it obtain power in this nation, will establish the policy of which his joint resolution is the expression. That is the practical remark I have to make.

There is a fact which I think I ought to contribute to this debate. It so happened that I was with the late Mr. Stanton when he made the order for the burial of our patriot dead on the grounds of Arlington. He mentioned it, and disclosed to me his reason. He meant to

bury those dead in perpetual guard over that ground, so that no person of the family of Lee should ever dare to come upon it, unless to encounter patriot ghosts counted by the thousand. In such spirit the ground was set apart. And now we are asked to dig up these dead and give over their resting-place to the traitor family.

My friend by my side [Mr. NYE] has already used an expression which I think a happy inspiration, when he said that those dead lying there are as sacred as the Constitution itself. He was right. We may as well disturb our sacred text as disturb them. Over every grave are written words of warning. Do you remember, Sir, that most memorable epitaph over the remains of William Shakespeare? —

> "Good friend, for Jesus' sake forbear
> To dig the dust inclosèd here:
> Blest be the man that spares these stones,
> And curst be he that moves my bones!"

For two centuries and a half these words have guarded the immortal dust of England's greatest poet. I write them now over the graves of our patriot dead, one and all. May they continue for centuries to guard their repose!

On the question of giving leave, the vote stood 4 yeas to 54 nays. The yeas were Messrs. Fowler of Tennessee, Hamilton and Vickers of Maryland, and McCreery of Kentucky.

NABOTH'S VINEYARD.

SPEECH IN THE SENATE ON THE PROPOSED ANNEXION OF SAN DOMINGO TO THE UNITED STATES, DECEMBER 21, 1870.

"And it came to pass after these things, that Naboth, the Jezreëlite, had a vineyard, which was in Jezreël, hard by the palace of Ahab, king of Samaria.

"And Ahab spake unto Naboth, saying, Give me thy vineyard, that I may have it for a garden of herbs, *because it is near unto my house;* and I will give thee for it a better vineyard than it: or, if it seem good to thee, *I will give thee the worth of it in money.*

"And Naboth said to Ahab, *The Lord forbid it me, that I should give the inheritance of my fathers unto thee.*" — 1 KINGS, xxi. 1-3.

In his Message at the opening of Congress, December 5, 1870, President Grant, adverting to the failure of the treaty for the annexion of San Domingo to the United States at the previous session, for want of the requisite two-thirds vote of the Senate, proceeded to remark : —

"I was thoroughly convinced then that the best interests of this country, commercially and materially, demanded its ratification. Time has only confirmed me in this view. I now firmly believe that the moment it is known that the United States have entirely abandoned the project of accepting as a part of its territory the island of San Domingo a free port will be negotiated for by European nations in the Bay of Samana. A large commercial city will spring up to which we will be tributary without receiving corresponding benefits, and then will be seen the folly of our rejecting so great a prize."

After setting forth at much length the great value of this prize, the President concluded as follows : —

"In view of the importance of this question, I earnestly urge upon Congress early action, expressive of its views as to the best means of acquiring San Domingo. My suggestion is, that by joint resolution of the two Houses of Congress the Executive be authorized to appoint a commission to negotiate a treaty with the authorities of San Domingo for the acquisition of that island, and that an appropriation be made to defray the expenses of such commission. The question may then be determined, either by the action of the Senate upon the treaty, or the joint action of the two Houses of Congress upon a resolution of annexation, as in the case of the acquisition of Texas. So convinced am I of the advantages to flow from the acquisition of San Domingo, and of the great disadvantages, I might almost say calamities, to flow from non-acquisition, that I believe the subject has only to be investigated to be approved."

As preliminary to action upon this recommendation of the President, Mr. Sumner, December 9th, offered the following resolution : —

"*Resolved*, That the President of the United States be requested to communicate to the Senate, if in his opinion not incompatible with the public interest, copies of all papers and correspondence relating to the proposed annexion of the Dominican portion of the island of San Domingo or the purchase of any part thereof, including the original and all subsequent instructions to any agent or consul of the United States, with the correspondence of such agent or consul; also, any protocol or convention

signed by such agent or consul; also, an account of the debt and liabilities of the Dominican Government, especially its obligations to the neighboring Republic of Hayti; also, the provisions of the existing Constitution of Dominica, so far as the same relate to the sale or transfer of the national domain; also, any treaty with Hayti or France by which Dominica is bound or affected; also, any communication from the neighboring Republic of Hayti, or from our Minister there, relating to the proposed annexion; also, instructions to the commander of our naval squadron in the waters of the island since the commencement of the late negotiations, with the reports and correspondence of such commander; also, any information tending to show what European power, if any, proposes to acquire jurisdiction of any part of the island, and if so, of what part; also, any information with regard to the position of President Baez, under whom the treaty of annexion was negotiated, and the extent to which he has been maintained in power by the presence of United States vessels of war; also, any information with regard to the sentiments of the people in Dominica and the reported pendency there of civil war; also, any information with regard to any claim of jurisdiction by the Republic of Hayti over the territory of Dominica."

December 12th, in pursuance of the President's recommendation, Mr. Morton, of Indiana, asked, and by unanimous consent obtained, leave to introduce "a Joint Resolution authorizing the appointment of commissioners in relation to the Republic of Dominica," as follows: —

"*Resolved, &c.*, That the President of the United States be authorized to appoint three commissioners, and also a secretary, (the latter to be versed in the English and Spanish languages,) to proceed to the island of San Domingo, and to inquire into, ascertain, and report: —

"1. The political state and condition of the Republic of Dominica.

"2. The desire and disposition of the people of the said Republic to become annexed to and to form part of the people of the United States.

"3. The physical, mental, and moral condition of the said people, and their general condition as to material wealth and industrial capacity.

"4. The resources of the country; its mineral and agricultural products; the products of its waters and forests; the general character of the soil; the extent and proportion thereof capable of cultivation; the climate and health of the country; its bays, harbors, and rivers; its general meteorological character, and the existence and frequency of remarkable meteorological phenomena.

"5. The debt of the Government, and its obligations, whether funded and ascertained and admitted, or unadjusted and under discussion.

"6. Treaties or engagements with other powers.

"7. Extent of boundaries and territory; what proportion is covered by grants or concessions, and generally what concessions or franchises have been granted.

"8. The terms and conditions on which the Dominican Government may desire to be annexed to and become part of the United States as one of the Territories thereof.

"9. Such other information with respect to the said Government or its territories as to the said commissioners shall seem desirable or important with reference to the future incorporation of the said Dominican Republic into the United States as one of its Territories.

"SEC. 2. *And be it further resolved*, That the said commissioners shall, as soon as conveniently may be, report to the President of the United States, who shall lay their report before Congress.

"SEC. 3. *And be it further resolved*, That the said commissioners shall serve without compensation, (except the payment of expenses,) and the compensation of the secretary shall be determined by the Secretary of State, with the approval of the President."

December 21st, the latter resolution, to which the precedence had been given, being under consideration in the Senate, Mr. Sumner spoke as follows: —

SPEECH.

MR. PRESIDENT, — The resolution before the Senate commits Congress to a dance of blood. It is a new step in a measure of violence. Already several steps have been taken, and Congress is now summoned to another.

Before I proceed with the merits of this question, so far as such language can be used with reference to it, and as I see the Senator from Ohio [Mr. SHERMAN] in his seat, I wish to answer an argument of his yesterday. He said that the resolution was simply one of inquiry, and that therefore there could be no objection to it. I was astonished when I heard one of his experience in this Chamber and his familiarity with legislation characterize the pending proposition simply as a resolution of inquiry. The Senator is mistaken. It is a joint resolution creating three offices under the Constitution of the United States, offices contemplated in the Constitution itself, and specially mentioned by name in the Act of 1856 to regulate the diplomatic and consular systems of the United States.[1] I read the first section of that Act, as follows: —

"That ambassadors, envoys extraordinary and ministers plenipotentiary, ministers resident, *commissioners*, chargés

[1] Statutes at Large, Vol. XI. pp. 52-65.

d'affaires, and secretaries of legation, appointed to the countries hereinafter named in Schedule A, shall be entitled to compensation for their services, respectively, at the rates per annum hereinafter specified: that is to say, ambassadors and envoys extraordinary and ministers plenipotentiary, the full amounts specified therefor in said Schedule A; ministers resident and *commissioners*, seventy-five per centum."

Now, Sir, by this joint resolution the President is authorized to appoint three "commissioners," and also a "secretary," the latter to be versed in the English and Spanish languages, to proceed to the island of San Domingo, and to inquire into, ascertain, and report certain things. I say this is a legislative act creating three new offices; but the Senator says that it is simply a resolution of inquiry. Even suppose the offices are not diplomatic, they are none the less offices. Let me put a question to the Senator. Suppose a joint resolution were brought forward authorizing the appointment of three commissioners to proceed to England in order to ascertain the condition of United States securities and the possibility of finding a market there; according to his assumption it would be a resolution of inquiry only. Would he allow it to pass without reference to the Committee on Finance? Would he not insist that it was a legislative act opening a most important question, which should be considered by the appropriate committee?

The Senator is too experienced to be put aside by the suggestion that the commissioners shall serve without compensation except the payment of expenses. Does this alter the case? Without those words in this joint resolution the general diplomatic law would take effect, and it would at least be a question if they would not be entitled to the salary of $7,500 per annum. And

yet a joint resolution creating three new offices is called simply a resolution of inquiry! Sir, the Senator is mistaken; and his mistake in this matter illustrates other mistakes with reference to the important subject now before the Senate.

Is it right that these commissioners shall serve without compensation? Is not the laborer worthy of his hire? If they are proper men, if among them is that illustrious Professor, my much-honored friend, who has been referred to already, Mr. Agassiz, is it right to expect him to give his invaluable services without compensation? The requirement that the service shall be of this kind will necessarily limit it either to the rich or to the partisan. It does not open a free field to talent, to fitness, to those various qualities so important on the commission.

I hope that the Senator will reconsider his judgment, that he will see that we cannot treat the pending proposition with the levity — he will pardon me — with which he treated it. Sir, it is something more than a resolution of inquiry. It is a serious measure, and it begins on its face by an affront to the Constitution of the United States, which expressly declares that the President "shall nominate, and, by and with the advice and consent of the Senate, shall appoint, ambassadors, other public ministers, and consuls"; but by this resolution he is to appoint commissioners without the advice and consent of the Senate; and yet this resolution is accepted by my honorable friend, the Senator from Ohio.

The Senator, it seems to me, has not comprehended the object of this resolution. To my mind it is plain. It is simply to commit Congress to the policy of annex-

ion. I insist upon this point: the object of the resolution, and I will demonstrate it, is to commit Congress to the policy of annexion. Otherwise, why is the resolution introduced? The President does not need it. Under existing powers he is authorized to appoint agents, if he pleases, to visit foreign countries, and he is supplied with a secret-service fund by which their expenses may be defrayed. The President does not need this resolution. It is an act of supererogation, so far as he is concerned; and it is also contrary, so far as I am informed, to the precedents of our history.

Agents of an informal character, informally called Commissioners, and not acting under any statute, have been appointed in times past by the Executive. I have a memorandum before me of several occasions. In 1811–12 the President dispatched Mr. Poinsett and Mr. Scott to Buenos Ayres and Caracas to ascertain the condition of those two countries, with a view to the recognition of their independence. In 1817 he dispatched Mr. Bland, Mr. Rodney, and Mr. Graham to Buenos Ayres again, and also to Chili; and in 1820 he dispatched Mr. Prevost and Mr. Forbes: all for the same object. The reports of those gentlemen will be found spread out at length in the State Papers of our country, printed by the authority of Congress; but you will search in vain through your statute-book for any act or joint resolution creating the Commission. It was constituted by the President himself, with the assistance of the Secretary of State; and it was to the Secretary of State that the Commission reported, and the President communicated their report to Congress.

Therefore do I say, this joint resolution, as it now stands, is entirely unnecessary. The President has all

the power it pretends to give. He may, if he sees fit, appoint agents, — calling them by any name that he pleases, calling them commissioners or anything else, — he may appoint agents to any extent, of any number, to visit this island and report with regard to its condition. He may give in charge to his envoys all the matters named in this joint resolution. All these he may write in their commission; and when they return, he may, as was done in other days, communicate their report to Congress.

Therefore do I say, the joint resolution is absolutely unnecessary; and I call the attention of my honored friend, the Senator from Indiana, [Mr. MORTON,] who champions it, to this special point. I ask him to show its necessity; I ask him to show any good purpose it can serve; I ask him to show why it is brought forward on this occasion, unless to commit Congress to the policy of annexion. Sir, I stand on this position; and I say, knowing the powers of the President under this Government, knowing the practice of this Government, that this resolution is completely superfluous, and that its single purpose, so far as one can see any purpose in its terms, is to commit Congress to what I shall show in a very few moments is a most unjustifiable policy.

Sir, others may do as they please; others may accept this policy; I will not. I have already set myself against it, and I continue now as firm against it as ever. The information which I have received since our discussions last year has confirmed me in the conclusions which I felt it my duty then to announce. In now presenting those conclusions I beg to say that I shall forbear considering whether the territory of Dominica is desirable or not; I shall forbear considering

its resources, even its finances, even its debt, — menacing as I know it is to the Treasury of our country, — except so far as that debt brings Hayti into this debate. Some other time these other topics will be proper for consideration; for the present I shall confine myself to grounds on which there can be no just difference.

I object to this proposition because it is a new stage in a measure of violence, which, so far as it has been maintained, has been upheld by violence. I use strong language, but only what the occasion requires. As Senator, as patriot, I cannot see my country suffer in its good name without an earnest effort to save it.

The negotiation for annexion began with a person known as Buenaventura Baez. All the evidence, official and unofficial, shows him to be a political jockey. But he could do little alone; he had about him two other political jockeys, Cazneau and Fabens; and these three together, a precious copartnership, seduced into their firm a young officer of ours, who entitled himself "Aide-de-Camp to the President of the United States." Together they got up what was called a protocol, in which the young officer entitling himself "Aide-de-Camp to the President" proceeds to make certain promises for the President. Before I read from this document, I desire to say that there is not one word showing that at the time this "Aide-de-Camp" had any title or any instruction to take this step. If he had, that title and that instruction have been withheld; no inquiry has been able to penetrate it. At least the committee[1] which brought out the protocol did not bring out any

[1] The Select Committee appointed to investigate the Memorial of Davis Hatch. — See Senate Reports, 41st Cong. 2d Sess., No. 234.

such authority. The document is called "a protocol," which I need not remind you, Sir, is in diplomatic terms the first draught of a treaty, or the memorandum between two powers in which are written down the heads of some subsequent convention; but at the time it is hardly less binding than a treaty itself, except, as you are well aware, that under the Constitution of the United States it can receive no final obligation without the consent of the Senate. This document begins as follows: —

"The following bases, which shall serve for framing a definitive treaty between the United States and the Dominican Republic, have been reduced to writing and agreed upon by General Orville E. Babcock, Aide-de-Camp to his Excellency, General Ulysses S. Grant, President of the United States of America, and his special agent to the Dominican Republic, and Mr. Manuel Maria Gautier, Secretary of State of the Departments of the Interior and of Police, charged with the foreign relations of the said Dominican Republic."[1]

Here you see how this young officer, undertaking to represent the United States of America, entitles himself "Aide-de-Camp to his Excellency, General Ulysses S. Grant, President of the United States of America, and his special agent to the Dominican Republic." Sir, you have experience in the Government of this country; your post is high, and I ask you, Do you know any such officer in our Government as "Aide-de-Camp to his Excellency, the President of the United States"? Does such designation appear in the Constitution, in any statute, or in the history of this Republic anywhere? If it does, your information, Sir, is much beyond mine.

[1] Senate Reports, *ut supra*, p. 188.

I have never before met any such instance. This young officer stands alone in using the lofty title. I believe, still further, that he stands alone in the history of free governments. I doubt whether you can find a diplomatic paper anywhere in which any person undertaking to represent his Government has entitled himself Aide-de-Camp of the chief of the State. The two duties are incompatible, according to all the experience of history. No aide-de-camp would be appointed commissioner; and the assumption of this exalted and exceptional character by this young officer shows at least his inexperience in diplomacy, if not his ambition to play a great part. Doubtless it had an effect with Baez, Cazneau, and Fabens, the three confederates. They were pleased with the eminence of the agent. It helped on the plan they were engineering.

The young aide-de-camp then proceeds to pledge the President as follows: —

"I. His Excellency, General Grant, President of the United States, promises, *privately*, to use all his influence, in order that the idea of annexing the Dominican Republic to the United States may acquire such a degree of popularity among members of Congress as will be necessary for its accomplishment."

Shall I read the rest of the document? It is of somewhat the same tenor. There are questions of money in it, cash down, all of which must have been particularly agreeable to the three confederates. It finally winds up as follows: —

"Done in duplicate, *in good faith*, in the City of San Domingo, the 4th day of the month of September, A. D. 1869.

"Orville E. Babcock.
Manuel Maria Gautier."

"In good faith," if you please, Sir.

I have heard it said that Orville E. Babcock did not write "Aide-de-Camp" against his name at the bottom of the protocol. This was not necessary. The designation of a person in such documents always appears at the beginning, — as, for instance, in a deed between two parties. It is not written against the name.

Therefore we have here a "protocol," so entitled, signed by a young officer who entitles himself "Aide-de-Camp to his Excellency, the President of the United States," and who promises for the President that he shall privately use all his influence in order that the idea of annexing the Dominican Republic to the United States may acquire such a degree of popularity among members of Congress as will be necessary for its accomplishment. Such was the promise. Senators about me know how faithfully the President has fulfilled it, how faithfully he has labored, privately and publicly, even beyond the protocol, — the protocol only required that he should work privately, — privately and publicly, in order that the idea of annexing the Dominican Republic should be agreeable to Congress.

The young officer, "Aide-de-Camp to the President of the United States," with this important and unprecedented document in his pocket, returned to Washington. Instead of being called to account for this unauthorized transaction, pledging the Chief Magistrate to use his influence privately with Congress in order to cram down a measure that the confederates justly supposed to be offensive, he was sent back with directions to negotiate a treaty. I would not allude to that treaty, if it had not been made the subject of discussion by the President himself in his Annual Message. You know it.

The treaty itself is not on your tables legislatively; it has never been communicated legislatively to Congress. The other House, which may be called to act upon this important measure, can know nothing of that treaty, and what we know of it we cannot speak of even in this debate. We can simply speak of its existence, for the President himself has imparted that to Congress and to the country. The treaty exists; and now the practical question is, By what means was it negotiated? I have described to you the three confederates who seduced into their company the aide-de-camp of the President; and now I have to aver, and I insist that the evidence will substantiate what I say, that at the time of the signature of the treaty of annexion Baez was sustained in power by the presence of our naval force in the waters of the Dominican Government. Go to the documents, and you will find that what I say is true. Confer with naval officers, confer with honest patriot citizens who know the case, and they will all testify that without the presence of our ships-of-war in those waters Baez would have been powerless.

This is not all, Sir; I broaden the allegation. Ever since the signature of the treaty, and especially since its rejection, Baez has been sustained in power by the presence of our naval force. Such I aver to be the fact. I state it with all the responsibility of my position, and with full conviction of its truth. I ask you, Sir, to go to the State Department and Navy Department and read the reports there on file, and I feel sure that what I state will be found to be substantially true. I ask you also to confer with any naval officer who has been there, or with any patriot citizen.

Sir, this is a most serious business. Nothing more

important to the honor of the Republic has occurred for long years. How many of us now are hanging with anxiety on the news from Europe! There stand matched in deadly combat two great historic foes, France and Germany, — France now pressed to the wall; and what is the frequent report? That Bismarck may take Louis Napoleon from his splendid prison and place him again on the throne of France, there to obtain from him that treaty of surrender which the Republic never will sign. Are we not all indignant at the thought? Why, Sir, it was only the other day that a member of the Cabinet, at my own house, in conversation on this question, said that nothing could make him more angry than the thought that Bismarck could play such a part, and that by this device France might be despoiled. And now, Sir, this is the very part played by the American Government. Baez has been treated as you fear Bismarck may treat Louis Napoleon. You call him "President"; they call him there "Dictator"; better call him "Emperor," and then the parallel will be complete. He is sustained in power by the Government of the United States that he may betray his country. Such is the fact, and I challenge any Senator to deny it. I submit myself to question, and challenge the Senator from Indiana, who, as I have already said, champions this proposition, to deny it. I challenge him to utter one word of doubt of the proposition which I now lay down, that Baez is maintained in power by the naval force of the United States, and that, being in power, we seek to negotiate with him that he may sell his country. It cannot be denied. Why, Sir, the case has a parallel in earlier days, ——

Mr. Morton rose.

Mr. Sumner. Allow me to give one more illustration, and then the Senator may interfere. — It has a parallel in earlier days, when the British Government selected the king of the Mosquitoes as their puppet on the margin of Central America. They called the Indian chief a king, and actually sent to him certain "regalia" and other signs of royal honor, and then, pretending to act under him, they claimed the jurisdiction of that region. Are we not now treating Baez in some measure as England treated the Mosquito king?

Mr. Morton. Will the Senator allow me to ask him a question?

Mr. Sumner. Certainly.

Mr. Morton. If this Commission go down there, they can return an answer to all these broad statements of the Senator, whether they are true or not. The Senator understands that; but I wish to ask him if he does not know, that, in answer to all this that he is talking about, it has been urged that all parties in San Domingo, whether they are for Baez or Cabral, or whoever they are for, are for annexation? If that is true, all this is utterly immaterial, except as something thrown in to obscure this subject before the public. I aver — and the Commission will show it — that all parties, whether against the Baez Government or for it, are equally for annexation; and if that is true, all this is frivolous.

Mr. Sumner. Mr. President, I alluded yesterday to the late Prime-Minister of France, who said that he accepted war "with a light heart." [1] The Senator from Indiana speaks in the same vein. He says that my allegation is "frivolous." Sir, never was there a more

[1] Ollivier: Debate in the Corps Législatif, July 15, 1870, previous to the Declaration of War against Prussia. — *Journal Officiel du Soir*, 17 Juillet 1870.

important allegation brought forward in this Chamber. Frivolous! Is it frivolous, when I see the flag of my country prostituted to an act of wrong? Is it frivolous, when I see the mighty power of this Republic degraded to an act of oppression? Nothing frivolous ——

Mr. Edmunds. What do you say as to the point, What are the wishes of the people of that country?

Mr. Sumner. I was remarking on the charge of frivolity; perhaps the Senator will let me finish on that head; I had not finished. — I say that there is nothing frivolous in the suggestion; I insist that it is grave. It is too grave; it is oppressive to this Government and this country. The Senator from Indiana asks, Why not send out this Commission? — he always comes back to his Commission, — Why not send these men out? I say, Why send them out, when we now have in the archives of this Republic evidence that this very Baez is sustained in power by the naval force of the United States, and that he now looks to this force for protection? Can you send out a commission under such circumstances without making yourself a party to the transaction?

And now I answer still further. The Senator asks if I am not aware that all persons there are in favor of annexion, — and the inquiry is repeated by my friend, the Senator from Vermont. I answer categorically, No, I am not aware of it; I understand the contrary. I have at least as good information as any accessible during the last week, and it is not four days old, just to the contrary. There are two chieftains in Dominica: one the political jockey with whom our Government has united, and who is now sustained in power by our naval

force; and the other is Cabral, who, as I have been assured by one who is bound to be well-informed, represents the people of his country, besides being *de jure* its head. Some time ago Cabral favored the sale of the Bay of Samana to the United States; but I am assured that he has never favored annexion to the United States. I am assured that his policy is to bring the two Governments of Dominica and Hayti once more together, as they were down to the revolution and war which lasted from 1844 to 1848, terminating in the uncertain independence of the Dominican part of the island.

Now I have answered categorically the inquiries of my two friends. The evidence, as I have it, is not that these two chieftains are agreed. On the contrary, there is between them discord; they differ from each other, — one seeking unity for these two Governments, the other seeking to sell his country for a price. But, whatever may be the sentiment of the people, whether Baez and Cabral agree or disagree, I come back to the single practical point that Baez has been, and is now, maintained in power by the naval force of the United States. Deny it, if you can. All this is still worse, when it is considered that the very Constitution of Dominica, under which the adventurer professes to hold rule, provides that there shall be no transfer to any foreign power of any portion of the country.

Now, Sir, try this again. Suppose during our civil war Louis Napoleon, in an evil hour, had undertaken to set up Jefferson Davis as the head of this Government, and then to make a treaty with him by which Texas, said to have been much coveted by the Emperor, should be yielded and become part of Mexico, which itself was to become more or less part of France. Suppose Louis

Napoleon had undertaken such an enterprise, how should we feel? Would not the blood boil? Would it be commended at all because we were told that there were large numbers in the Southern States who favored it? And yet this is precisely what the United States are now doing in the Bay of Samana and the port of San Domingo.

This may be seen in another light. We complain of taxes. Do you know what we have paid during this year in carrying out this sorrowful policy? I have here an article which I cut from a New York paper last evening, being a letter from San Domingo City, dated December 6, 1870, from which I will read a sentence:—

"The United States war-steamer Swatara is on a cruise, the Yantic is at San Domingo City, and the Nantasket is at Samana."

Three ships out of the small Navy of the United States occupying these waters to enforce this policy! If force were not to be employed, why these three ships? why the necessity of any ship? Tell me. Can there be good reason?

When I think of all this accumulated power in those waters, those three war-vessels, with the patronage naturally incident to their presence, it is not astonishing that there is on the seaboard, immediately within their influence, a certain sentiment in favor of annexion. But when you penetrate the interior, beyond the sight of their smoke, at least beyond the influence of their money, it is otherwise. There the sentiment is adverse. There it is Cabral who prevails. So, at least, I am assured. But whether one or the other prevails, the objection is the same. You violate the first principles of

self-government and of constitutional liberty, when you lend your power to either.

Sir, I have presented but half of this case, and perhaps the least painful part. I am now brought to another aspect of it. This naval force to which I have referred has also been directed against the neighboring Republic of Hayti (the only colored Government now existing in the world, a republic seeking to follow our great example,) penetrating its harbors and undertaking to dictate what it should do. If you will read again the reports at the Navy Department, you will find that I do not overstate when I say that they have undertaken to dictate to the Government of Hayti what it should do. Nor is this all. In an unhappy moment, the commodore of an American fleet, going ashore, allowed himself to insult and menace the Government there, saying, that, if it interfered in any way with the territory of Dominica, he would blow the town down. So I have been informed by one who ought to know. You look grave, Sir. Well you may. I wish I could give you the official evidence on this assumption; but I am assured, on evidence which I regard as beyond question, that this incident has occurred. In what school was our commodore reared? The prudent mother in the story cautioned her son to take care never to fight with a boy of his own size. An American commodore, in the same spirit, undertakes to insult a sister republic too weak to resist. Of course, if he did this on his own motion and without instructions from Washington, he ought to be removed, — and, in my judgment, rather than carry out such instructions, he ought to have thrown his sword into the sea.

Senators murmur. There is a rule of morals and of honor above all other rules, and no officer of Army or Navy can consent to do an act of wrong. This was the voice of our fathers during the Revolution. How we praised and glorified those British officers who refused to serve against them, generously sacrificing their commissions rather than enforce a tyranny! Often have I honored in my heart of hearts that great man, one of the greatest in English history, Granville Sharp, foremost of all England's Abolitionists, because, while an humble clerk, and poor, in one of the departments in London, he resigned his post rather than sustain that policy toward the Colonies which he regarded as wrong.

No naval officer should have allowed himself to use such a menace toward this weak republic. By its very weakness was it entitled to kindness; and yet, Sir, its weakness was the occasion for the insult it received. Think you, Sir, that he would have used such language toward England or France? I think not.

All this is aggravated, when we consider the relations between Dominica and Hayti, and bring this incredible transaction to the touchstone of International Law. Dominica and Hayti became one under President Boyer in 1822, and the whole island continued as a unit until 1844, when Dominica rose against Hayti, and, after a bloody conflict of four years, in 1848 succeeded in securing its independence.

Mr. Morton. Mr. President, ——

The Vice-President. Does the Senator from Massachusetts yield to the Senator from Indiana?

Mr. Sumner. Yes, Sir.

Mr. Morton. Will the Senator allow me to suggest that it might help to a better understanding of the proposition he is

about to state, if he will say that they became one by the conquest of Hayti, — not by consent, but by force of arms?

Mr. Sumner. I said that they became one in 1822, and that they continued one till 1844. To what extent arms played a part I have not said. Suffice it to say that Dominica constituted part of the Government of Hayti, which was administered under the name of Hayti. In 1838, while the two constituted one Government, a treaty was made with France, which I have before me, by which the Haytian Government agreed to pay, in certain annual instalments, the sum of sixty million francs. Since the separation of the two, Hayti has proceeded with those payments, and I think the Senator over the way will not deny that there is at least ground of claim on the part of Hayti against Dominica for contribution to those payments.

Mr. Morton. Will the Senator allow me to ask him a question about that? — because I do not desire to take up the time of the Senate in answering him, — and that is this: Whether the debt for which Hayti agreed to pay France sixty million francs was not for spoliations upon the property of French citizens in Hayti, and not in Dominica, and with which Dominica never had anything to do? That is the fact about it.

Mr. Sumner. Nothing is said in the treaty before me of the consideration for these payments.

Mr. Morton. The history of the transaction shows that.

Mr. Sumner. History shows, however, that the two Governments were one at this time, and I have to submit that there is at least a question whether Dominica

is not liable to Hayti on that account. All will see the question, while Hayti insists upon the liability of Dominica. I mention this that you may see the relation between the two Governments.

But this is not all. Besides the treaty with France, there is another between Hayti and Dominica. I have no copy of it. The resolution which I introduced the other day calls for it. I became acquainted with it through the protest which I hold in my hand, made by the Government of Hayti to Mr. Seward, as Secretary of State, and dated at Washington the 5th of February, 1868, against the sale and purchase of the Bay of Samana. In the course of this protest I find the following allegation: —

> "That there is a treaty between the Government of Hayti and that of San Domingo to the effect that no part of the island can be alienated by either of the two Governments."

Now the point which I present to the Senate, and seek to impress, is, that Hayti, having these claims on Dominica, is interdicted from their pursuit by an American commodore.

But perhaps I may be told — I see my friend, the Senator from Indiana, is taking notes — that the American commodore was justified under the Law of Nations. I meet him on that point. How could he be justified? How could the Law of Nations sanction such a wrong? The only ground would be, that during the pendency of the negotiation, or while the treaty was under consideration, the Government of the United States would protect the territory to be transferred. I have seen that impossible pretension put forth in newspapers. I call it "impossible." It is unfounded in the Law of Nations.

Our ships, during the negotiation of the treaty and during its consideration in the Senate, had no more right or power in those waters than before the negotiation. Only when the treaty was consummated by the act of the Senate giving to it advice and consent, could we exercise any semblance of jurisdiction there. Every effort at jurisdiction until that time was usurpation. I read now from Wheaton's authoritative work on International Law, page 337,[1] being part of the section entitled, "The treaty-making power dependent on the municipal constitution": —

"In certain limited or constitutional monarchies the consent of the legislative power of the nation is in some cases required for that purpose. In some republics, as in that of the United States of America, the advice and consent of the Senate are essential, to enable the chief executive magistrate to pledge the national faith in this form. In all these cases it is consequently an implied condition, in negotiating with foreign powers, that the treaties concluded by the executive government shall be subject to ratification in the manner prescribed by the fundamental laws of the State."

The Chief Magistrate can pledge the national faith only according to the Constitution.

Now I turn to another place in this same authoritative work, being page 718,[2] and read as follows: —

"A treaty of peace binds the contracting parties from the time of its signature."

Then follows an emphatic note from the very able commentator, Mr. Dana: —

"It would be more exact to say, 'from the time at which

[1] Dana's edition. Lawrence, 2d edit. pp. 455-56.
[2] Dana's edition. Lawrence, 2d edit. p. 884.

the treaty is concluded.' If the political constitution of a party to the treaty requires ratification by a body in the State, the treaty is conditional until so ratified."

The treaty, therefore, had no effect until ratified by the Senate; and I repeat, every attempt at jurisdiction in those waters was a usurpation and an act of violence; I think I should not go too far, if I said it was an act of war. If a commodore leaves his quarter-deck, pulls ashore, and, with his guns commanding a town, threatens to blow it down, is not this an act of war?

In Great Britain the exclusive prerogative of making treaties is in the Crown, and so in most other countries it is in the Executive; but I need not remind you that in our country it is otherwise. The exclusive prerogative here is not in the Executive; it is in the President by and with the advice and consent of the Senate; and until that advice and consent have been given he can exercise no power under that treaty. Those waters were as sacred as the waters about France or about England. He might as well have penetrated the ports of either of those countries and launched his menace there as have penetrated the waters of this weak power and launched his menace.

I have called it an act of war, — war, Sir, made by the Executive without the consent of Congress. If Congress had declared war against this feeble republic, then it would have been the part of the Executive to carry that declaration into effect; but until then what right had our Executive to do this thing? None which can be vindicated by the laws of our country, none except what is found in the law of force.

This outrage by our Navy upon a sister republic is

aggravated by the issue which the President of the United States in his Annual Message has directly made with the President of Hayti. Of course, Sir, the President of the United States, when he prepared his Message, was familiar with a document like that which I now hold in my hands, entitled "The Monitor, Official Journal of the Republic of Hayti," under date of Saturday, the 24th of September, 1870, containing the message of the President of Hayti addressed to the National Assembly. This message is divided into sections or chapters, with headings, not unlike a message or document in our own country. And now, Sir, listen to what the President of Hayti in this annual message says of the project of annexion, and then in one moment listen to the issue which the President of the United States has joined with this President: I translate it literally: —

"The project of annexion of the Dominican part has been rejected by the American Senate. The anxieties which this annexion caused to spring up have been dissipated before the good sense and the wisdom of the Senate at Washington."

Of course the President of the United States was intimate with this document. He could not have undertaken to hurl his bolt against this feeble republic without knowing at least what its President had said. I will not do him the wrong to suppose him ignorant. His Secretary of State must have informed him. He must have known the precise words that President Saget had employed, when he said that the anxieties caused by this annexion were dissipated before the good sense and wisdom of the Senate at Washington. Our President joins issue with President Saget; he says that the

rejection of the treaty was a "folly." There you have it. The President of the Black Republic calls the rejection an act of "good sense" and "wisdom"; the President of the United States calls it an act of "folly." Am I wrong? Let me read from the Message of our President: —

"A large commercial city will spring up, to which we will be tributary without receiving corresponding benefits, and then will be seen the folly of our rejecting so great a prize."

So the two stand, President Saget and President Grant, — President Grant speaking with the voice of forty millions, and this other President, who has less than six hundred thousand people, all black.

If the President of the United States had contented himself with thus joining issue with the President of Hayti, I should have left the two face to face; but, not content with making this issue, the President of the United States proceeds to menace the independence of Hayti. Sir, the case is serious. Acting in the spirit of his commodore, he nine times over makes this menace. I have the Message here, and now I substantiate what I say. The part relating to this subject begins, —

"During the last session of Congress a treaty for the annexation of the Republic of San Domingo to the United States failed to receive the requisite two-thirds vote of the Senate."

Here he speaks of the rejection of the treaty for the annexion of Dominica, calling it "the Republic of San Domingo." This is distinctive. Then he proceeds to demand the annexion of the whole island. I read as follows: —

"I now firmly believe, that, the moment it is known that the United States have entirely abandoned the project of accepting as a part of its territory *the island of San Domingo*, a free port will be negotiated for by European nations in the Bay of Samana."

I say nothing of the latter part of the proposition; I leave that to the judgment of the Senate; but here you have a proposition for the whole island of San Domingo. The Senate have rejected a treaty for the annexion of the Republic of San Domingo.

Mr. Morton. Mr. President, ——

Mr. Sumner. The Senator will not interrupt me now. I shall finish this statement presently, and then he may interrupt me. — Having thus laid down his basis proposing the annexion of the whole island, which is called by the geographers sometimes Hayti and sometimes San Domingo, the President then proceeds to his second menace: —

"The acquisition of San Domingo is desirable because of its geographical position."

He has already described it as "the island of San Domingo," and it is desirable because of its geographical position, — an argument as applicable to Hayti as to Dominica.

Then he proceeds to the third: —

"San Domingo, with a stable government, under which her immense resources can be developed, will give remunerative wages to tens of thousands of laborers *not now upon the island*."

Mark the words, "not now upon *the island*." It is the island always in view.

Then comes the fourth: —

"San Domingo will become a large consumer of the products of Northern farms and manufactories."

It is the whole island.

Then the fifth: —

"The acquisition of San Domingo is an adherence to the Monroe Doctrine."

Though nothing in this place is said of the whole island, of course those words are necessarily associated with the previous words, while the argument from the Monroe Doctrine is just as applicable to Hayti as to Dominica.

Then the sixth: —

"In view of the importance of this question, I earnestly urge upon Congress early action expressive of its views as to the best means of acquiring San Domingo."

Referring back, of course, to what he has already said.

Then he proposes, —

"A commission to negotiate a treaty with the authorities of San Domingo *for the acquisition of that island*, and that an appropriation be made to defray the expenses of such commission."

Here is the proposition undisguised.

And he winds up with the ninth: —

"So convinced am I of the advantages to flow from the acquisition of San Domingo," &c.

Thus nine times ——

Mr. Morton rose.

MR. SUMNER. Not quite yet. The Senator will take notice when I have done with this point, and then he shall have the floor. — Nine times in this Message has the President, after joining issue first with the President of Hayti, — nine times has he menaced the independence of the Haytian Republic. Some remarkable propositions at times are received with nine cheers. Here is a menace nine times over; and throughout the whole of that San Domingo column, written with so much intensity, we are called to consider commercial, financial, material advantages, and not one word is lisped of justice or humanity, not one word of what we owe to the neighboring Republic of Hayti, nine times menaced.

MR. MORTON rose.

MR. SUMNER. I know what my friend from Indiana is about to say, — that all this is accidental. This is hard to believe. Nine accidents in one column! Nine accidents of menace against a sister republic! There is a maxim of law, which I was taught early and have not entirely forgotten, that we are bound to presume that every document is executed solemnly and in conformity with rule. Sir, we are bound to believe that the President's Message was carefully considered. There can be no accident in a President's Message. A President's Message is not a stump speech. It is not a Senate speech. It is a document, every line of which must have been carefully considered, not only by the President himself, but by every member of his Cabinet.

There are Senators here who have been familiar with Messages in other years, and know how they are prepared. I have one in my mind which within my knowledge occupied the consideration of the Cabinet three

full days,— I think four, if not five, — every single sentence being carefully considered, read by itself, revised, sounded with the hammer, if I may so express myself, like the wheels of a railroad car, to see that it had the true ring. Of course the Message of a President of the United States must go through such an examination. I will not follow the Senator from Indiana in doing the injustice to the President of supposing that his Message was ill-considered, that it was not carefully read over with his Cabinet, that every sentence was not debated, and that these words were not all finally adopted as expressing the sentiments of the President. At any rate, there they stand in the Message. Now any word in a Message, as in a Queen's Speech, even loosely or inconsiderately proposing anything adverse to the independence of a country, is in the nature of a menace. My language is not too strong. In such a case a word is a blow.

History is often said to repeat itself. More or less it does. It repeats itself now. This whole measure of annexion, and the spirit with which it is pressed, find a parallel in the Kansas and Nebraska Bill, and in the Lecompton Constitution, by which it was sought to subjugate a distant Territory to Slavery. The Senator from Indiana was not here during those days, although he was acting well his part at home; but he will remember the pressure to which we were then exposed. And now we witness the same things: violence in a distant island, as there was violence in Kansas; also the same Presidential appliances; and shall I add, the same menace of personal assault filling the air? All this naturally flowers in the Presidential proposition that the an-

nexion shall be by joint resolution of the two Houses of Congress; so that we have violence to Dominica, violence to Hayti, violence to Public Law, including violence to the Constitution of Dominica, and also to a Treaty between Dominica and Hayti, crowned by violence to the Constitution of the United States.

In other days, to carry his project, a President tried to change a committee. It was James Buchanan.[1] And now we have been called this session to witness a similar endeavor by our President. He was not satisfied with the Committee on Foreign Relations as constituted for years. He wished a change. He asked first for the removal of the Chairman. Somebody told him that this would not be convenient. He then asked for the removal of the Senator from Missouri [Mr. SCHURZ]; and he was told that this could not be done without affecting the German vote. He then called for the removal of my friend the Senator from New Hampshire, [Mr. PATTERSON,] who unhappily had no German votes behind him. It was finally settled that this could not be done.

I allude to these things reluctantly, and only as part of the case. They illustrate the spirit we are called to encounter. They illustrate the extent to which the President has fallen into the line of bad examples.

Sir, I appeal to you, as Vice-President. By official position and by well-known relations of friendship you enjoy opportunities which I entreat you to use for the good of your country, and, may I add, for the benefit of that party which has so justly honored you. Go to the

[1] See Message to the House of Representatives, March 28, 1860, and the Report thereon: House Journal, p. 620; Reports of Committees, 36th Cong. 1st Sess., No. 394.

President, I ask you, and address him frankly with the voice of a friend to whom he must hearken. Counsel him to shun all approach to the example of Franklin Pierce, James Buchanan, and Andrew Johnson; tell him not to allow the oppression of a weak and humble people; ask him not to exercise War Powers without authority of Congress; and remind him, kindly, but firmly, that there is a grandeur in Justice and Peace beyond anything in material aggrandizement, beyond anything in war.

Again I return to the pending resolution, which I oppose as a new stage in the long-drawn machination. Am I wrong in holding up this negotiation, which has in it so much of violence, — violence toward Dominica, violence toward Hayti? Of course the proposed treaty assumes and adopts the civil war pending in the territory annexed. This is the terrible incumbrance. No prudent man buys a lawsuit; but we are called to buy a bloody lawsuit. I read now the recent testimony of Mr. Hatch, who, while in favor of annexion, writes as follows, under date of South Norwalk, Connecticut, December 12, 1870: —

"I have not, however, looked with favor upon the project as it has been attempted to be effected; and I firmly believe, if we should receive that territory from the hands of President Baez, while all the leading men of the Cabral party, the most numerous, the most intelligent, and the wealthiest, are in prison, in exile, or in arms against Baez, without their having a voice in the transfer, it would result in a terrible disaster."

Be taught by the experience of Spain, when in 1861 this power, on the invitation of a predecessor of Baez, undertook to play the part we are asked to play. Forts

were built and troops were landed. By a document which I now hold in my hand it appears, that, when at last this power withdrew, she had expended forty millions of hard Spanish dollars and "sacrificed sixteen thousand of the flower of her army." From another source I learn that ten thousand Spanish soldiers were buried there. Are we ready to enter upon this bloody dance? Are we ready to take up this bloody lawsuit?

Vain to set forth, as the Message does, all manner of advantages, "commercially and materially." What are these, if Right and Humanity are sacrificed? What are these without that priceless blessing, Peace? I am not insensible to the commercial and material prosperity of my country. But there is something above these. It is the honor and good name of the Republic, now darkened by an act of wrong. If this territory, so much coveted by the President, were infinitely more valuable than it is, I hope the Senate would not be tempted to obtain it by trampling on the weak and humble. Admit all that the advocates of the present scheme assert with regard to the resources of this territory, and then imagine its lofty mountains bursting with the precious metals, its streams flowing with amber over silver sands, where every field is a Garden of the Hesperides, blooming with vegetable gold, and all this is not worth the price we are called to pay.

There is one other consideration, vast in importance and conclusive in character, to which I allude only. The island of San Domingo, situated in tropical waters, and occupied by another race, of another color, never can become a permanent possession of the United States. You may seize it by force of arms or by diplomacy,

where a naval squadron does more than the minister; but the enforced jurisdiction cannot endure. Already by a higher statute is that island set apart to the colored race. It is theirs by right of possession, by their sweat and blood mingling with the soil, by tropical position, by its burning sun, and by unalterable laws of climate. Such is the ordinance of Nature, which I am not the first to recognize. San Domingo is the earliest of that independent group destined to occupy the Caribbean Sea, toward which our duty is plain as the Ten Commandments. Kindness, beneficence, assistance, aid, help, protection, all that is implied in good neighborhood, — these we must give, freely, bountifully; but their independence is as precious to them as is ours to us, and it is placed under the safeguard of natural laws which we cannot violate with impunity.

Long ago it was evident that the Great Republic might fitly extend the shelter of its protection to the governments formed in these tropical islands, dealing with them graciously, generously, and in a Christian spirit, — helping them in their weakness, encouraging them in their trials, and being to them always a friend; but we take counsel of our supposed interests rather than theirs, when we seek to remove them from the sphere in which they have been placed by Providence.

I conclude as I began. I protest against this legislation as another stage in a drama of blood. I protest against it in the name of Justice outraged by violence, in the name of Humanity insulted, in the name of the weak trodden down, in the name of Peace imperilled, and in the name of the African race, whose first effort at Independence is rudely assailed.

Later in debate Mr. Sumner spoke in reply as follows: —

Mr. President, — So far as the Senator from Michigan [Mr. Chandler] arraigns me as a member of the Republican party I have no reply. He knows that I am as good a Republican as himself; he knows that I have had as much to do with the making and support of the party as himself; and when Charles Sumner finds the Senators over the way ranging under his banner, as the Senator predicts, this country will be regenerated, — for the Democratic party will be Republican.

But I do reply to the questions of fact. And now, Sir, I am obliged to make a statement — the Senator compels me — which I had hoped not to make. The President of the United States did me the honor to call at my house, — it was nearly a year ago, during the recess. Shortly after coming into the room he alluded to certain new treaties already negotiated, with regard to which I had no information. Sir, you must expect me to speak frankly. The President addressed me four times as Chairman of the Judiciary Committee, — adding, that the treaties would come before the Judiciary Committee, and on this account he wished to speak with me.

He proceeded with an explanation, which I very soon interrupted, saying: "By the way, Mr. President, it is very hard to turn out Governor Ashley; I have just received a letter from the Governor, and I hope I shall not take too great a liberty, Mr. President, if I read it. I find it excellent and eloquent, and written with a feeling which interests me much." I commenced the letter and read two pages or more, when I thought the President was uneasy, and I felt that perhaps I was taking

too great a liberty with him in my own house; but I was irresistibly impelled by loyalty to an absent friend, while I was glad of this opportunity of diverting attention from the treaties. As conversation about Governor Ashley subsided the President returned to the treaties, leaving on my mind no very strong idea of what they proposed, and absolutely nothing with regard to the character of the negotiation. My reply was precise. The language is fixed absolutely in my memory. "Mr. President," I said, "I am an Administration man, and whatever you do will always find in me the most careful and candid consideration." Those were my words.

I have heard it said that I assured the President that I would support his Administration in this measure. Never! He may have formed this opinion, but never did I say anything to justify it; nor did I suppose he could have failed to appreciate the reserve with which I spoke. My language, I repeat, was precise, well-considered, and chosen in advance: "I am an Administration man, and whatever you do will always find in me the most careful and candid consideration." In this statement I am positive. It was early fixed in my mind, and I know that I am right.

And, Sir, did I not give to the treaties the most careful and candid consideration? They were referred to the committee with which I am connected. I appeal to my colleagues on that committee if I did not do all that I promised. When I first laid them before the committee, it was very evident that there was a large majority against them. Indeed, there was only one member of the committee who said anything in their favor. I then stated that I hoped our conversation would be regarded as informal, and that there would be

no immediate vote, or any course which could be interpreted otherwise than friendly to the Administration. Too prompt action might be misconstrued.

My desire was to proceed with utmost delicacy. I did not know then, what I have learned since, how the President had set his heart upon the project of annexion. With my experience of treaties, familiar as I have been with them in the Senate, I supposed that I was pursuing the course most agreeable to him, and, should the report be adverse, most respectful and considerate. This I state, Sir, on my conscience, as my solemn judgment at the time, and my motive of conduct. I wished to be careful and candid. It was easy to see from the beginning that annexion had small chance in the committee, whatever might be its fate in the Senate; but I was determined to say and do nothing by which the result should in any way be aggravated. Again I appeal to every one of my colleagues on that committee for their testimony in this behalf. I know that I am above criticism. I know that I have pursued a patriotic course, always just and considerate to the President; and I tell the Senator from Michigan, who has served with me so long in this Chamber, that he does me great injustice. Some time or other he will see it so. He may not see it now; but he ought to rise in his place and at once correct the wrong.

Perhaps I need not say more, and yet there has been so much criticism upon me to-night that I proceed a little further. Here was my friend at my right, [Mr. NYE,] who, having shot his shaft, has left. I wish that he had praised me less and been more candid. His praise was generous, but his candor certainly less marked than his praise. I might take up every point of his

speech and show you the wrong that he did me. He is not in his seat. I wish he were. [*Mr. Nye entered the Chamber from one of the cloak-rooms.*] Oh, there he comes. He said that I was against inquiry. No such thing. I am for inquiry. I wish all the documents now on the files of the State Department and of the Navy Department spread before Congress and before the country. To this end I have introduced a resolution which is now on your table; I wish this information before any other step is taken in this business. Instead of being against inquiry, I am for it, and in that way which will be most effective. But the resolution which I introduced, asking for the most important testimony, all documentary in character, is left on the table, while a different proposition, legislative in character and in no respect a resolution of inquiry, but an act creating three new officers under the Constitution, is pressed on the Senate, and, as I demonstrated to-day, for the obvious purpose of associating Congress with this scheme of annexion. The whole question of annexion was opened, and I felt it my duty to show at what cost to the good name of this Republic the scheme has been pursued down to this day. I entered upon this exposure with a reluctance which I cannot express; but it was with me a duty.

My friend at my right [Mr. NYE] says — I took down his words, I think — that I saw nothing in the President's Message except what he said about San Domingo. I was speaking of San Domingo, and not of the other topics; nor was I speaking of the President. There again my friend did me injustice. I was speaking of annexion; and it is my habit, I think you will do me the justice to say, Mr. President, to speak directly to

the questions on which I undertake to address the Senate. At any rate, I try to confine myself to the point; and the point to-day was annexion, and nothing else. I was not called to go to the right or to the left, to enter upon all the various topics of the Message, whether for praise or censure. The Message was not under discussion, except in one single point. Nor was I considering the merits of the Administration, or the merits, whether civil or military, of the President, but the annexion of San Domingo, on which I felt it my duty to express myself with the freedom which belongs to a Senator of the United States.

The Senator here [Mr. NYE] says, and the Senator over the way, [Mr. MORTON,] I think, said the same thing, that I have assailed the President. I have done no such thing. I alluded to the President as little as possible, and never except in strict subordination to the main question. On this question of annexion I feel strongly, — not as the Senator [Mr. NYE] has most uncandidly suggested, from any pride of opinion, or because I have already expressed myself one way and the President another, but because for long years I have felt strongly always when human rights were assailed. I cannot see the humble crushed without my best endeavor against the wrong. Long ago I read those proud words by which Rome in her glory was described as making it her business to spare the humble, but to war down the proud.[1] I felt that we had before us a case where the rule was reversed, and in an unhappy hour our Government was warring down the humble. So it seemed to me on the evidence.

Do I err? Then set the facts before the people, that

[1] "Parcere subjectis, et debellare superbos." — *Æneid*. VI. 853.

they may judge; but, as I understand those facts, whether from official documents or from the testimony of officers or citizens who have been in that island latterly, Baez has been maintained in power by the arms of the United States. So I understand it. Correct me, if I am wrong; but if the facts be as I believe, you must leave me to my judgment upon them.

Both my honorable friends, the Senator on my right [Mr. NYE] and the Senator over the way [Mr. MORTON], have said that I sought to present an unfavorable comparison between the President of Hayti and the President of the United States; and the Senator over the way went into an elaborate arraignment of the Haytian President. Sir, I had no word of praise for that President. The Senator is mistaken. From his Message, which I now hold in my hand, I read his congratulation that the project of annexion had been defeated by "the good sense and the wisdom" of the Senate at Washington; and I then read from the Message of the President of the United States what I supposed was the issue he intended to join with the Haytian President, characterizing this very rejection of annexion on the part of the Senate as "folly"; and I put the two Messages on that point face to face, and there I left them. I said nothing to praise Saget or to arraign Grant. Sir, I have no disposition to do either. I only wish to do my duty simply and humbly, pained and sorry that I am called to differ from so many valued friends, but then still feeling that for me there is no other course to pursue.

The Joint Resolution was passed the same day, — Yeas 32, Nays 9 : 30 Senators being absent, or refraining from voting.

January 4, 1871, Mr. Sumner's resolution was taken up, and passed

without a division : also, February 15th, another, calling on the Secretary of the Navy for "a copy of the instructions to the commander of the Tennessee on her present cruise; also, the names of the United States ships-of-war in the waters of the island of San Domingo since the commencement of the recent negotiations with Dominica, together with the armaments of such ships."

NEW YEAR'S DAY.

ARTICLE IN THE NEW YORK INDEPENDENT,
JANUARY 5, 1871.

THE Old Year is dead. Hail to the New! How alike! How unlike! Each is a measure of time, — the Old belonging to the infinite Past, the New to the infinite Future. But each has its own trials and its own triumphs. Be it our aspiration to smooth the trials and assure the triumphs before us!

Sorrow and grief there must be. May they be tempered with mercy, and may we bear them with submission! Work and effort there must be; for such is the condition of life. And then there is Duty always, which we are justly told is "more than life." What is life where duty fails? Companion with all is Hope, with too flickering sunshine. All these will be surely ours in the New Year, as they were during the year that has passed.

Looking beyond the microcosm of individual life to the macrocosm of the world, other trials and triumphs are before us. God grant that the triumphs may surpass the trials, making the New Year an epoch in human progress!

Unhappily, we are not yet relieved from anxiety on account of the Rebellion. Though Reconstruction is in

our statute-book, it is not yet established in the universal heart of the Nation, as it must be before peace can be permanently assured. There are painful reports from States lately in rebellion, showing that life is unsafe and society disorganized. North Carolina is always considered less mercurial and violent than her Southern neighbor, with whom the Rebellion began; but this slow and staid State is now disturbed by bad spirits, menacing revolution and blood. A private letter says: "I am assured, by men who know, that blood will be spilt, if Congress does not interfere. The excitement of '61 bore no comparison to this." In certain counties the Ku-Klux-Klan so far dominates that to be a Unionist is to brave death. Nor is this evil spirit confined to North Carolina. It shows itself in other States, and threatens to extend. Alas, that, after all the terrible sacrifices of these latter days, we should be called to this new experience!

And yet the Rebellion is said to be suppressed. This is a mistake. So long as men are in peril whose only offence is that they love the Nation, or that their skins are not "white," the Rebellion still exists. Force is needed; nor is this the time to remove political disabilities. Our first obligation is to those who stood by the Nation, and those others whom the Nation has rescued from bondage. These two classes must be protected at all hazards. Here is a sacred duty. And not until this is completely performed can we listen to the talk of Amnesty.

Amnesty! Tempting and most persuasive word! Who would not be glad to accord it? Who would not delight to behold all in equal citizenship? But the general safety is the supreme law. The people must be

secure in their homes; especially must the Unionist and the Freedman be safe against all assault, while dear-bought rights are fixed beyond recall. When this is done, how happy will all be to remove every bar and ban! Nought in vengeance, nought even in punishment; but all for the sake of that peace which is the first condition of national welfare.

If Reconstruction and Amnesty perplex us still, it is because we did not begin to deal with them sooner. Promptly on the surrender of Lee the just system should have been declared, — being Reconstruction on the principles of the Declaration of Independence, with a piece of land for every adult freedman, to be followed by Amnesty and Reconciliation. Our present embarrassments proceed from failure to comprehend the case, or from perverse sympathy with Rebels, — all of which we inherit from the misrule of Andrew Johnson. It is for us to apply the corrective. Too late it may be for the piece of land; but it is not too late for the vigorous enforcement of Reconstruction, involving necessarily the adjournment of Amnesty.

Specie Payments should accompany the completion of Reconstruction. Both have lingered too long. Not only did we err at the surrender of Lee in postponing Reconstruction, but also in postponing all effort for Specie Payments. The time has come for the consummation of each. May the year we now greet witness these two triumphs! Peace and security are the specie of Reconstruction, as gold and silver are the specie of Currency. We must have both.

It is hard that these questions should now be complicated with a machination to annex a West India island

by violence, and without any popular voice in its favor. Ships of the National Navy uphold an unprincipled pretender, thus enabled to sell his country. This is violence, as much as if a broadside were fired. It is according to the worst precedents. To this crushing fact add an unknown expenditure from the cost of our navy engaged in enforcing the capitulation; also the debt to be assumed, the money to be paid down; and then the climax of war on a tropical island where already Frenchmen and Spaniards have succumbed. The whole story is painful, and forms a melancholy chapter of the national history. At a moment when there should be unity among good men for the sake of peace, it is strange and incomprehensible that this project should be pressed for adoption. Better far bestow our energies in the guardianship of Reconstruction and the establishment of civil order within our borders, including specie payments.

This attempt is aggravated, when it is considered how it proceeds in grievous indifference to the African race. Not content with setting up an adventurer in Dominica, it menaces the Republic of Hayti. An American Commodore was found who did not resign rather than do this thing. What are fairest fields with golden harvests as compensation for such an act? But, if indifferent to the means of annexion, and content even with violence, there remains another question, overtopping all others: Whether the whole Island of San Domingo is not set apart by Providence for the African race? — nay, more, Whether the whole Caribbean Sea must not be African? A private letter from New Jersey gives expression to humane sentiments: —

"As a great people, instead of swallowing up small republics, we should encourage their growth, and, above all, leave a small portion at least where the African and his descendants may work out the problem of self-government. . . . . I speak to you in behalf of the colored Sabbath School of this city, numbering one hundred and eighty-one members, from seven years of age up to ninety-five, — I speak in behalf of our colored citizens, (we are all agreed upon it,) — I speak in behalf of myself, a sufferer and a laborer amongst them for ten years past; when I say we are *all opposed* to the annexation of San Domingo."

This is natural. It is not easy to comprehend how it can be otherwise. Colored persons, unwilling to see their race sacrificed, will make a stand against an ill-omened measure. New Year's Day will be elevated by vows to keep our Republic true to her great mission, as benefactor, rather than conquering annexer.

Not without anxiety can we see how, contrary to the promise of his Inaugural, the President proclaims a "policy," and insists upon its enforcement, even to the extent of disregarding the treaty power of the Senate, and menacing annexion of a foreign nation by Joint Resolution. Is Congress to be coerced? All this may make us reflect with more than usual solemnity at the beginning of a New Year.

Such an effort is adverse to the Republican Party, with which are associated the best interests of the country. Every Republican must do his best to keep the party strong. Questions calculated to divide must not be pressed. The party must be a unit; but it cannot be such at any mere word of command. No one man by *ipse dixit* can establish the test of fidelity to the party. Its strength is in its principles, and especially

in the Declaration of Independence, which is its corner-stone. Let us stand by these, without any new shibboleth, unknown to the party, and which many can never utter. General Jackson's great words for the Union should be adopted now: "The Republican Party; *it must be preserved!*" And may every project inconsistent with its harmony be allowed to slumber! This is a fit vow for the New Year.

On this day the thoughts cannot be confined to our own country. Wherever man exists, there must our good wishes travel, with the precious example of our Republic, making Liberty everywhere an inspiration. To the whole human family must the benison go, — adding especially that most precious of all, the benison of Peace. Humanity stands aghast at the barbarous conflict yet prolonged between two most civilized nations. Who can gauge the mighty dimensions of the fearful sacrifice? Soon must it end, and out of its consuming fires may a new civilization arise! The time has come when the War System, which is still the established arbiter for the determination of international differences, must give place to peaceful substitutes and the disarming of nations. Let this be done, and there will be a triumph with glory serene and lasting, undimmed by a single tear. Forbear, at least on this day of aspiration, to insist that such a good cannot be accomplished. You wrong Human Nature, when you proclaim that the colossal barbarism bestriding nations must be maintained. You wrong Justice, when you degrade it to the condition of successful force, making *Might* the substitute and synonym for *Right*. You wrong Charity, with all the virtues in her train, when

you put them under the hoof of Violence. International War, like Slavery, is a monster chartered by Law. Why not repeal the charter? That this may be done is another vow worthy of the year we begin.

ITALIAN UNITY.

LETTER TO A PUBLIC MEETING AT THE ACADEMY OF MUSIC IN NEW YORK, JANUARY 10, 1871.

SENATE CHAMBER, January 10, 1871.

DEAR SIR, — Though not in person at your great meeting to commemorate what you happily call the completion of Italian unity, I shall be there in heart and soul. A lover of Italy and anxious for her independence as a nation, I have for years longed to see this day. Italy without Rome was like the body without its head. Rome is the natural head of Italy, and is now at last joined with the body to which it belongs, never again to be separated.

How many hearts have throbbed with alternate despair and hope, watching the too tardy fulfilment of the patriot aspiration for that United Italy which shall possess once more the Capitoline Hill and the ancient Forum, the Colosseum and its immense memories of grandeur, together with the later dome of Michel Angelo, in itself the emblem of all-embracing unity! This was the aspiration of Cavour. I remember the great man well, at the very beginning of the war for Independence, in a small apartment which was bed-room and office, while he conversed on the future of the historic Peninsula, and with tranquil voice declared that all must be

free to the Adriatic, with Rome as the national capital. I need not say that I listened with delight and sympathy. He died before all was free to the Adriatic, and while Rome was yet ruled by the Papal autocrat. At last his desires are accomplished. Naturally the liberation of Venice was followed by the liberation of Rome, and both, when free, helped complete the national unity. No longer "merely a geographical expression," according to the insulting phrase of Metternich, Italy is now a nation whose lofty capstone is Rome.

Besides the triumph of the nation, I see in this event two other things of surpassing value in the history of Liberty. First, the union of Church and State is overthrown in its greatest example. The Pope remains the pastor of a mighty flock, but without temporal power. Here is a precedent, which, beginning at Rome, must be followed everywhere, until Church and State are no longer conjoined, and all are at liberty to worship God according to conscience, without compulsion from Man. The other consequence is hardly less important. The Pope was an absolute sovereign for life. In the overthrow of his temporal power Absolutism receives a blow, and the people everywhere obtain new assurance for the future. Here is occasion for joy and hope. There is no Italian who may not now repeat the words of Alfieri without dooming himself to exile: —

> "Loco, ove solo UN contra tutti basta,
> Patria non m' è, benchè natío terreno." [1]

The poet who loved Liberty so well was right, when he refused to recognize as his country that place "where *one alone* sufficed against all." But this was the condition of Rome under the Papal power.

[1] Sonetto XXXVII.

Therefore, not only in sympathy with Italy, but in devotion to human rights, do I rejoice in this day.

Full of good wishes for Italy, happy in what she has already accomplished, and hopeful for the future, I remain, dear Sir, very faithfully yours,

CHARLES SUMNER.

TO THE COMMITTEE.

RESPONSE TO A TOAST.

Remarks at a Complimentary Dinner to Colonel John W. Forney, at Washington, January 28, 1871.

The occasion was one of farewell to Colonel Forney by his brother journalists, on his retirement from the editorship of the "Chronicle" and removal from Washington, — Mr. Sumner being one of a few invited guests.

After the toast to Colonel Forney, and his response, Mr. L. A. Gobright, of the Associated Press, at the call of the Chair rose and said: —

"Gentlemen, — The glory of a free people is the possession of a government founded upon justice. It is their duty at all times to defend it against assaults from without and the causes of ruin within. Education is an essential principle with a view to the elevation of morals. The political superstructure being a social necessity, controversies as to the architecture and materials to be employed only excite comment, and thus quicken the interest in the great results. The people, however, select the workmen: Congress to make the laws; the Judiciary to expound them; the President to administer them; and the Press to record them with comments, either of censure or favorable, as the public interests may demand. We have heard from the Press; it is but just that we should now hear from Congress, — from one who is a native and a resident of a part of the country the people of which have long been familiar with the subject of Constitutions for the purpose of securing religious and political freedom. I therefore, in the name of this Society and at the command of our President, respectfully call upon the Hon. Charles Sumner to respond to —

"'The Government of the United States: The Press records with pride the acts of the executive and legislative branches to secure the honor of the nation abroad and its prosperity at home.'"

Mr. Sumner, responding, said: —

REALLY, Mr. President, when I listened to the remarks of our excellent Mr. Gobright upon Education, Architecture, and various other important topics, I could not see how he could land on me. [*Laughter.*] By what process I am to-night in that line is past my comprehension. I am still further mystified when called to respond for the Government. [*Laughter.*]

Mr. President, do I represent the Government? [*Laughter and applause.*] I wish I did, but I fear that I do not. I do represent Massachusetts,—[*"That's so!"*]—the venerable Commonwealth who gives me permission to speak for her. And yet, as I am called to speak of the Government, I am reminded of an incident which may not be familiar to all, as I do not remember to have seen it in print, of what occurred to Joseph Bonaparte, when, after the overthrow of his family, leaving France, he sought a home on this side of the ocean, and reaching New York, he looked about for a soldier or *gendarme*, or at least a policeman, to whom he could exhibit his passport. There was none within sight or call, when, at last, he exclaimed: "This is the first country where I ever found myself in which I could not find the Government." I believe that you are not more fortunate to-night, when you call upon me to speak for the Government, than was Joseph Bonaparte, ex-King of Spain, when he landed in New York. [*Laughter and applause.*] We are of course talking confidentially here,—[*"Oh, yes, of course!"*]—and yet, if you will allow me to allude to the Government, I will say that I do wish this Government of ours may be so good and great, so true and brave, that it may become an example of republican institutions, by which

they may be commended throughout the world. [*Applause.*] I am a believer in republican institutions, and I do earnestly wish that my country should be a most persuasive example.

But you are thinking more of your guest than of the Government, and, however I may be addressed, I am only a witness here to-night. I witness the honors bestowed and received. The two parties are the gentlemen of the press in Washington, of the first part, and my honored friend, John W. Forney, of the second part. [*Applause.*] The rest are witnesses only.

If a witness might speak, I would declare the pleasure I feel in this instance of fellowship and harmony, as honorable to the many hosts as to the single guest. Such an example will do something to smooth those differences which, unhappily, are too often the incident of public life. And yet this token is natural. Are we not told that we shall reap as we have sown? And has not your guest sown always the seeds of kindness and good-will? [*Applause, and cries of "That's so!"*] And, therefore, should he not now reap his reward? My own friendly relations began when there were many differences between us; but I remember continually the personal amenity, superior to all differences, by which I was won to him.

In leaving Washington, he goes from one circle of friends to another circle, of which we have honored representatives here to-night. I cannot wish for him more than that he may be as happy and welcome with them as he has been with you.

Our guest, only a moment ago, in conversation alluded to this Saturday evening, which so peculiarly belongs to gentlemen of the Press, as reminding of the

"Cotter's Saturday Night," the exquisite poem of Burns. He will allow me to quote words peculiarly applicable:—

> "The toil-worn cotter frae his labor goes;
> This night his weekly moil is at an end;
> Collects his spades, his mattocks, and his hoes."
>
> [*Laughter.*]

Such is your case to-night, unless you are connected with a Sunday paper. [*Laughter.*] Your weekly moil is at an end. Allow me to wish that when it is again renewed, it may be with heart strengthened and soul refreshed by the social enjoyment of to-night.

DUTY OF THE YOUNG COLORED LAWYER.

Address at the Commencement Exercises of the Law Department of Howard University at Washington, February 3, 1871.

Young Gentlemen, Graduates of the Law School:—

I AM glad in listening to the exercises on this interesting occasion. They carry me back to early life, when I was a student at the Law School of Harvard University, as you have been students in the Law School of Howard University. I cannot think of those days without fondness. They were the happiest of my life. Nor do I doubt that hereafter you will look back with something of the same emotion to your student days.

There is happiness in the acquisition of knowledge, which surpasses all common joys. The student who feels that he is making daily progress, constantly learning something new, who sees the shadows by which he was originally surrounded gradually exchanged for an atmosphere of light, cannot fail to be happy. His toil becomes a delight, and all that he learns is a treasure,—with this difference from gold and silver, that it cannot be stolen or lost. It is a perpetual capital at compound interest. Therefore do I say, for the sake of happiness, and also for worldly good, must the young man be faithful in study.

Pardon me, if, while congratulating you upon the career you now commence, I make one or two practical suggestions, which I hope may not be without value.

In the first place, you must not cease your studies, now that you leave the Law School. You must be students always. Some there are who content themselves with what is called "an education," and then cease their studies. This is a mistake. At college or school we acquire the elements of knowledge, and we learn also *how to study*, — but very little more. If to this be added the love of study, this is the beginning of success.

But your studies must not be confined to the Law; you must study other things. Your minds must be refined and elevated by Literature; your knowledge must be extended by Science. All great lawyers testify to the importance of these acquisitions. Probably most persons familiar with the law would recognize the venerable Horace Binney, of Philadelphia, as the living head of the profession in our country; but while he was engaged in practice, he was not more remarkable for profound learning in the Law than for various attainments in scholarship and science. The necessity of literature to the lawyer is illustrated by an anecdote of Lord Brougham, who, when Chancellor of England, was visited by the father of a young man just commencing his law studies, and asked what books he would especially recommend to the beginner. "Tell him to read Dante," was the prompt reply. "But," said the astonished father, "my son is beginning law." "Yes," said the Chancellor, "and I say tell him to read Dante. If he would be a good lawyer, he must be at home in literature."

There is one other possession without which science, literature, and law, all in amplest measure, will be of small avail: it is Character. Would you succeed, you must deserve success; and this can only be by character. Cicero, in his work describing the orator, says that he must be a good man; that otherwise he cannot be a true orator.[1] This is heathen testimony worthy of constant memory. But the same may be said of the lawyer. Remember well, do not forget, you cannot be a good lawyer unless you are a good man. Nothing is more certain.

If to these things be added health, there is no success which will not be within your reach.

There is one other remark which I hope you will allow me to make. Belonging to a race which for long generations has been oppressed and despoiled of rights, you must be the vigilant and sensitive defenders of all who suffer in any way from wrong. The good lawyer should always be on the side of Human Rights; and yet it is a melancholy fact in history that lawyers have too often lent learning and subtle tongue to sustain wrong. This you must scorn to do. In the sacred cause of Justice be faithful, constant, brave. No matter who is the offender, — whether crime be attempted by political party, by Congress, or by President, — wherever it shows itself, whether on the continent or on an island of the sea, you must be ready at all times to stand forth, careless of consequences, and vindicate the Right. So doing, you will uphold your own race in its unexampled trials.

Each of you is a unit of the mass. Therefore, sustaining the rights of all, you will sustain your own.

[1] De Oratore, Lib. II. Cap. 20.

Be not satisfied with anything less than the Rights of All. But while generously maintaining the rights of others, I venture to say that you will be entirely unworthy of the vantage-ground on which you now stand, if you do not insist at all times on those Equal Rights which are still denied to you. Here particularly is a duty. The poet has said that

> "Who would be free, themselves must strike the blow."

You are all free, God be praised! But you are still shut out from rights which are justly yours. Yourselves must strike the blow, — not by violence, but in every mode known to the Constitution and Law. I do not doubt that every denial of Equal Rights, whether in the school-room, the jury-box, the public hotel, the steamboat, or the public conveyance, by land or water, is contrary to the fundamental principles of Republican Government, and therefore to the Constitution itself, which should be corrected by the Courts, if not by Congress. See to it that this is done. The Constitution does not contain the word "white"; who can insert it in the Law? Insist that the common-school, where the child is prepared for the duties of manhood, shall know no discrimination unknown to the Constitution. Insist, also, that the public conveyances and public hotels, owing their existence to Law, shall know no discrimination unknown to the Constitution, so that the Senator or the Representative in Congress, who is the peer of all at the National Capitol, shall not be insulted and degraded on the way to his public duties. Insist upon equal rights everywhere; make others insist upon them. Insist that our institutions shall be brought into perfect harmony with the promises of the Declaration of Inde-

pendence, which is grand for its universality. I hold you to this allegiance, — first, by the race from which you are sprung, and, secondly, by the profession you now espouse.

CHARITY TO FRANCE OR GERMANY?

Speech in the Senate, February 4, 1871.

February 4, 1871, Mr. Pomeroy, of Kansas, brought forward a Joint Resolution authorizing the President "to cause to be stationed at the port of New York, if the same can be done without injury to the public service, one or more of our naval vessels, to be there held in readiness to receive on board for transportation such supplies as may be furnished by the people of the United States for the destitute and suffering people of France and Germany." The resolution was passed, after debate, in which Senators Howard of Michigan, Conkling of New York, Morton of Indiana, Casserly of California, Schurz of Missouri, and others, made brief speeches. Mr. Sumner spoke as follows: —

MR. PRESIDENT, — If I were compelled to determine our comparative obligation to France and Germany, I should hesitate; and what American could do otherwise? I look at the beginning of our history, and I see, that, through the genius of our greatest diplomatist and greatest citizen, Benjamin Franklin, France was openly enlisted on our side. She gave us the Treaty of Alliance, and flung her sword into the trembling scale. Through France was independence assured; without France it must have been postponed. Such, Sir, is our obligation to France, infinite in extent, which, ever paying, we must ever owe.

But is our obligation to Germany less? I cannot

forget that this great country, fertile in men as in thought, has contributed to ours a population numerous and enlightened, by which the Republic is strengthened and our civilization elevated. France contributed to national independence; Germany to national strength and life. How shall I undertake to determine the difference between these two obligations? We owe infinitely to France; we owe infinitely to Germany. It is within my knowledge, — indeed, I have learned it within a very few days, — that, during this last year, Count Bismarck, in conversation with a personal friend of my own, said, with something of pride, that Germany had in the United States her second largest State after Prussia.

Mr. Wilson. What did he mean by that?

Mr. Sumner. The German statesman had encouraged emigration, by which Germans come here; so that there is a German population among us larger than that of any other German State after Prussia. Such, to my mind, is the natural meaning of his language. Some of the largest German cities are in our country; and all this population together is itself a State.

But, Sir, why consider this comparison? Here is simply a question of charity. Now charity knows no distinction of persons, knows no distinction of nations; especially does it know no distinction of friends. I will not undertake to hold the balance between these two mighty benefactors, to whom we are under such great and perhaps equal obligations. Let us do all that we can for each, with this understanding, — that, where there is the most suffering, there must our charity go.

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